Royal Australasian
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Specialist Affordability Section
Medical Benefits Division
Department of Health, Disability and Ageing
Australian Government
Via email: specialistaffordability@health.gov.au

Dear Specialist Affordability Section,

Re: Submission: Consultation Paper – Fee Transparency in Health Care: Informed Financial Consent and Split Billing Practices

Executive Summary and Key recommendations:

The Royal Australasian College of Surgeons (RACS) is the leading advocate for surgical standards, professionalism and surgical patient care across Australia and Aotearoa New Zealand. Established in 1927, the College is responsible for the education, training and assessment of surgeons, the accreditation of surgical education and training programs, and the maintenance of professional standards throughout a surgeon's career.

RACS welcomes the opportunity to respond to this consultation and supports the Government's focus on improving fee transparency, noting it is one factor that can contribute to access and affordability.

RACS agrees that informed financial consent (IFC) is an essential component of ethical and patient-centred clinical practice. Effective IFC builds trust between patients and clinicians, reduces uncertainty surrounding treatment costs and supports shared decision-making.

The College strongly supports initiatives that improve patient understanding of healthcare costs, strengthen informed decision-making and promote transparency throughout the patient journey.

Addressing fee transparency alone will not address inequity of access to health care. Accordingly, RACS supports the development of a long-term strategy to maintaining a balance between the public and private sector.

Introduction

The Australian health-care system is amongst the best in the world. The plurality that exists in Australia's health system between public and private models of care is one of the key factors of its success. This unique balance underpins the current system's flexibility and sustainability. Both models of care are important. They are interdependent and rely upon each other to supplement or cover inherent deficiencies within each model of care. The Private System is therefore critical to the efficiency of the Public sector, but also to the Australian Health care system as a whole. Affordability of the private sector, and trust of the processes within it must be maintained.

Patients have the right to receive clear, timely and understandable information regarding the likely costs associated with their care so that they can make informed decisions before treatment proceeds.

RACS believes enhancements in the understanding of fees to be, but one component of the improvements required within Australia's health system. Even though improved fee transparency will alleviate surprises in billing and enhance communication, it does not resolve the problems related to high treatment expenses and difficulties in accessing specialist services. Those contributing barriers are multifactorial and interrelated, and include low reimbursements through Medicare, increasing expenses in providing specialist services, decreasing quality of private health insurance, limited capacity in hospitals, inadequate workforce and workforce distribution, an increasingly under-resourced public system and an increasingly large number of surgical issues to be treated and treatment options.

Thus, improvements in transparency of fees cannot be considered a substitute for improving access nor affordability. Transformation across the health-care sector generally is both necessary and urgent.

About the Royal Australasian College of Surgeons

RACS represents more than 8,500 surgeons inclusive of 1,500 surgical trainees across nine surgical specialties: Cardiothoracic Surgery, General Surgery, Neurosurgery, Orthopaedic Surgery, Otolaryngology Head and Neck Surgery (ENT), Paediatric Surgery, Plastic and Reconstructive Surgery, Urology, and Vascular Surgery. Through evidence-based policy development, research and advocacy, the College works collaboratively with governments, health services, consumers and other stakeholders to improve patient safety, equitable access to surgical care and the long-term sustainability of the health system. The College is committed to ensuring that all patients have access to safe, timely, high-quality and affordable surgical care, regardless of where they live.

The Royal Australasian College of Surgeons (RACS) welcomes the opportunity to provide comments on the Department of Health, Disability and Ageing's consultation paper *Fee Transparency in Health Care: Informed Financial Consent and Split Billing Practices*.

Informed Financial Consent

According to RACS *Code of Conduct*[1] surgeons are advised to obtain informed consent, including informed financial consent, before giving treatment where possible. In addition, RACS *Informed Financial Consent Position Paper*[2], states that patients must be given written papers about expected fees and other financial implications before they undergo treatment, as best practice.

The College also supports nationally consistent guidance that encourages early discussions regarding fees, written fee estimates for planned elective surgery and explanations of Medicare rebates wherever practicable. However, likely private health insurance benefits should be the responsibility of the patient and the patient's insurer and not something a surgeon can reasonably be expected to interpret, given the number and complexity of individual policies. Discussions should also explain that cost estimates are based upon the best available clinical information and may vary where unforeseen complications, altered operative findings or additional treatment becomes necessary. Any future legislative framework should recognise that surgery is inherently unpredictable and avoid imposing unrealistic obligations upon practitioners to guarantee final costs.

Episode-of-Care Transparency

RACS agrees with the consultation paper that one of the greatest challenges facing patients is the

[1] https://www.surgeons.org/become-a-surgeon/About-specialist-surgeons/code-of-conduct
[2] https://www.surgeons.org/about-racs/position-papers/informed-financial-consent-2019

fragmented nature of billing within Australia's healthcare system.[3] While patients generally perceive surgery as a single episode of care, treatment frequently involves multiple independent providers, including surgeons, assistant surgeons, anaesthetists, hospitals, pathologists, radiologists, pharmacists and prosthesis suppliers for example. Each provider operates independently and maintains separate billing arrangements, often resulting in multiple invoices arising from a single episode of treatment.

RACS does not support proposals that would impose legal responsibility upon surgeons for fees determined independently by other healthcare providers or organisations. Surgeons do not control hospital accommodation charges, anaesthetic fees, pathology costs, imaging services or the benefits paid by private health insurers. Requiring surgeons to guarantee or disclose costs that they neither determine nor control would create significant practical, legal and ethical difficulties.

Responsibility for improving episode-of-care transparency should instead be shared across the healthcare system. Hospitals, insurers and individual providers each have important roles in ensuring patients receive coordinated financial information. Government should consider digital solutions that enable patients to receive consolidated cost estimates while recognising that each provider remains responsible for accurately communicating their own fees.

Split Billing

RACS endorses practices that ensure transparency in relations to split billing practices, especially when such practices mislead consumers as to the actual cost of healthcare or compromise their protection as consumers. Consumers must know in advance the overall costs they will incur after obtaining assistance for any sort of treatment, if possible.

RACS does not support practices that aim to undermine the principles of bulk billing, as well as those practices that aim to avoid paying no-gap charges or to hide obligatory costs from patients. These practices undermine trust of patients towards the healthcare system. The proposed solutions must ensure that inappropriate hidden charges are separated from the charges that are legitimate administrative and management fees disclosed before treatment is given to consumers.

The response must focus on enhancing transparency and protecting consumers rather than complicating the existing legislation for the majority of practitioners who are obeying the rules.

Regulation and Enforcement

The consultation paper outlines several possible regulatory models, including expanding the role of the Professional Services Review, increasing departmental compliance activities, strengthening AHPRA oversight, expanding consumer law enforcement or establishing a dedicated IFC regulator. While RACS recognises the Department's desire to improve consistency and accountability, the College considers that significant caution should be exercised before introducing additional regulatory mechanisms.

Medical practitioners already operate within a comprehensive regulatory environment that includes AHPRA, the Medical Board of Australia, Professional Services Review processes, National Safety and Quality Health Service Standards, private hospital accreditation requirements and Australian Consumer Law. Any additional regulatory mechanism should be assessed against whether it

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[3] *Fee Transparency in Health Care: Examining Informed Financial Consent and Split Billing Practices*, pp.4, 8-9

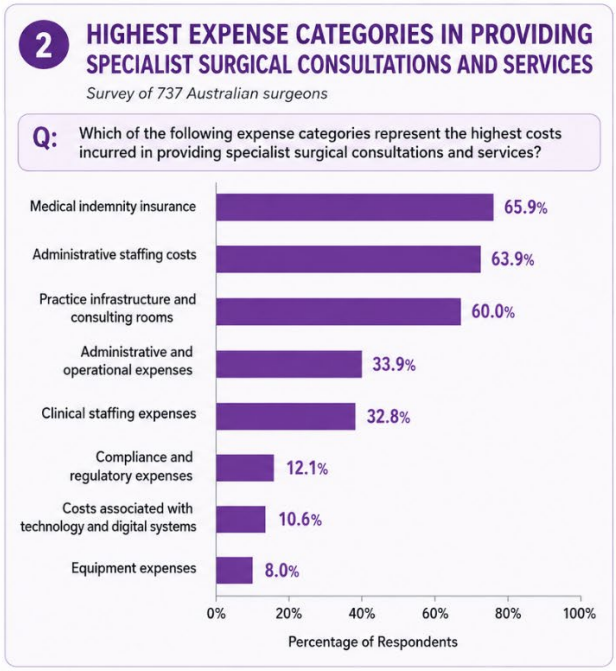
duplicates existing oversight and whether it is likely to improve patient outcomes or affordability in practice.

RACS advocates for strengthening professional guidance that is consistently applied nationally, developing standardized templates for informed financial consent, enhancing patient education, and investing in technologies that promote better communication between health providers and clients. If enforcement of regulations is required, it should be proportional, focused on intentional wrongdoing, and designed to improve patient outcomes rather than contribute to the complexity of administrative work processes for the vast majority of practitioners already meeting good practice.

RACS Survey Addressing the Broader Drivers of Affordability

The consultation paper is correct to emphasize the need for fee disclosure. However, RACS feels it is important for the Government to look at how structural factors contribute to access and affordability of specialist surgical care. The principal barriers to timely surgical care extend well beyond informed financial consent.

The College has recently reached out to its membership about these particular issues with a national survey of Australian surgeons (737 respondents). These results should be considered on a background of Medicare rebates that are inconsistent, overly simplistic and un-nuanced, and with indexation that has remained below CPI since its inception.



When asked about barriers to timely surgical treatment in their region, 70.3% of respondents said the major issue has to do with inadequacies in funding of public hospitals. This was followed by theatre closures or limited access to operating lists (50.9%), declining affordability of private health insurance (50.9%), hospital bed shortages (46.5%) and the growing number of uninsured patients (32.7%). Other significant barriers included patient affordability (25.4%), surgical workforce shortages (23.6%), shortages of nursing and allied health staff (18.3%), and anaesthetic workforce shortages (16.0%).

The survey results indicate that the financial sustainability of specialist surgical practice is becoming increasingly compromised. According to the survey results, respondents named the highest expense categories while providing specialist surgical consultations and services. These are incurred cost on medical indemnity insurance (65.9%), administrative staffing costs (63.9%) and practice infrastructure and consulting rooms (60.0%). Other cost categories included administrative and operational expenses (33.9%), clinical staffing expenses (32.8%), compliance and regulatory expenses (12.1%), costs associated with technology and digital systems (10.6%) and equipment expenses (8.0%).

These findings reinforce that fee transparency measures, while valuable, need to sit alongside broader reform if the Government's affordability and access goals are to be achieved.

Fee transparency should therefore form one component of a broader program of health system reform directed towards improving access, affordability and the long-term sustainability of Australia's surgical services. Improving patient affordability will require systemic reform, including the modernization of Medicare, more transparency from private health insurers, better resource allocation to public hospitals and workforce planning rather than simply regulating the billing practices of practitioners.

RACS acknowledges that patients' experiences of unexpected costs are genuine and warrant a response. Our survey indicates that over 90% of surgeons already charge no or low gaps, which suggests the priority should be targeted action on the minority engaged in poor practice rather than broad new obligations on the whole profession.

Digital Solutions

RACS supports further exploration of the use of digital technologies to help facilitate and make it easier to gain informed financial consent and reduce unnecessary administrative load. In the future, it should be possible for patients to obtain coordinated financial information on secure digital systems that connect surgeon's estimates with the hospital charges, Medicare rebates, private health insurance benefits, and information provided by other health providers involved in the procedure. Digital systems should aid, but not substitute any conversation between clinicians and patients. Personal communication remains crucial in ensuring that patients understand the financial implications associated with their treatment and can ask questions before making treatment-related decisions.

The College supports the ongoing development of the Medical Costs Finder provided that its main aim is to increase understanding of patients through the episode of care by showing cost of types of procedure and not individual specialists' fees. It is important that it takes note of accurate information and clinical context and does not promote ungrounded comparisons without having regard for the complexity and unpredictability of surgery.

Recommendations

RACS suggests that the Australian Government:

1. Utilise the informed financial consent frameworks developed by RACS, the Council of Presidents of Medical Colleges, and the Australian Medical Association rather than establishing competing regulatory standards.
2. Promote providing written informed financial consent for elective surgical procedures when possible, noting the uncertainties associated with the provision of clinical care.

3. Develop nationally consistent episode-of-care transparency models that involve hospitals, insurers and all participating healthcare providers when providing patients with coordinated financial information.
4. Avoid placing legal responsibility upon individual surgeons for fees determined independently by hospitals, anaesthetists, pathologists, radiologists or other healthcare providers.
5. Invest in digital tools that help patients gain better insight into the expected costs of their treatment, while enabling healthcare practitioners to reduce their administrative duties.
6. Tackle inappropriate split billing practices by implementing regulatory reforms that will enhance the transparency of pricing for patients and offer better protection to consumers, while avoiding disproportionate new administrative duties on practitioners.
7. Ensure that any upcoming compliance or enforcement framework is adequately proportional, consistent across the country, and concentrates on intentional wrongdoing rather than unintended wrongdoings or unavoidable uncertainty in medical practice.
8. Acknowledge that enhancements in terms of informed financial approval should be compatible with the larger reforms dealing with Medicare indexation, private health insurance sustainability, public hospital capacity, workforce shortages and distribution and long-term availability of specialist surgery.
9. Address underlying barriers to access to care:
    a. Medicare reform including indexation, appropriately funding MBS items that have not been reviewed for some time, and investing appropriately in new MBS items where clinical evidence supports it
    b. Private health insurance transparency
    c. Increasing public hospital outpatient and operating list capacity
    d. Workforce shortage and maldistribution
    e. Support long-term sustainability of specialist medical services

Conclusion

RACS welcomes the Government's determination to promote fee transparency and strengthen informed financial consent throughout Australia's healthcare system. The College supports reforms aimed at increasing patients' understanding, creating more transparent systems, and making sure the issue of informed financial consent is improved in an efficient and realistic way, taking into account the nature of our multidisciplinary healthcare system, as well as the uncertainty and complexity of certain surgical practices.

It is important to remember that while IFC will help make medical care more transparent, it will not necessarily make it more affordable. This requires properly resourcing public hospitals, modernisation and future-proofing of Medicare in Australia, reform of the private health insurance sector, and addressing workforce shortages and distribution.

Yours sincerely,

Dr Philip Morreau FRACS
President
Royal Australasian College of Surgeons