

6 July 2021

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The Hon. Greg Hunt MP
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Dear Minister

RE: MBS Review Taskforce Final Report Roundtable

On behalf of The Royal Australasian College of Surgeons (RACS) we thank the MBS Review Taskforce (the Taskforce) for the invitation to the MBS Review Taskforce Final Report Roundtable (24 February 2021) to discuss the report titled An MBS for the 21st Century Recommendations, Learnings and Ideas for the Future (the Report). Two RACS representatives attended the roundtable and this subsequent submission has been the result.

RACS is the leading institution for the training of surgical practice for more than 7,000 surgeons and 1,300 surgical trainees and Specialist International Medical Graduates in Australia and New Zealand. The report has highlighted many recommendations of value to surgical practice. However, there are some aspects of this Report that RACS would like to provide our commentary and critique, as well as avenues for improvement.

RACS acknowledges that the Commonwealth Minister for Health has yet to consider the recommendations and RACS is prepared to provide additional advice via a ministerial and departmental meeting.

Summary

RACS broadly supports the recommendations provided by the Taskforce to the Minister but wishes to comment in more depth on some areas of specific interest or concern.

Recommendation 3

Develop and mandate a consistent documented procedure with appropriate provision of information to assist providers in explaining costs to consumers prior to a course of treatment.

RACS is active in this space and advocates for out-of-pocket transparency. RACS is a member of the Ministerial Advisory Committee on Out-of-Pocket Costs and provides advice. RACS has provided publicly available papers for guidance to our Fellows and patients on topics concerning fee transparency. These include Positions Papers on Informed Financial Consent and Surgeons Fees , and an information sheet to support patients as to their rights when dealing with surgical fees . Full transparency is also encouraged from private health insurers (PHIs).

However, this remains a complex area which must balance independence of practitioners in setting their fees without locked-in contracts with health funds, balanced against the sustainability of health care for the future. It needs to be linked to the particular specialisation skill set of the surgeon and the median out-of-pocket costs for all regions. It needs to be able to be flexible to take into account the following: pensioners and those who are vulnerable, and private patients in a public hospital setting. It may require different



Committed to
Indigenous health

communication tools for the consumer and GPs, and there should be a clear description of why gaps exist in current medical practice in Australia in any tool made available for GPs and consumers.

This is a major area of concern for both Government and RACS, and RACS looks forward via its representatives to continue dialogue with the Departments' Out of Pocket Expenses Committee.

Recommendation 5

Establish a Medical Fee Complaints Tribunal to act as a formal and independent mechanism for individual consumers to have fee concerns reviewed.

The suggestion to put forward a Medical Fee Complaints Tribunal (MFCT) while a welcoming one, should be a step taken with great caution by the government. The MFCT, ideally, should not provide any binding recommendations and should be a space for patients to go and make a complaint and seek advice. Egregious fees can be hard to define, and the mechanism for dealing and disciplining those who charge egregious fees remains opaque. RACS does not have the ability to discipline fellows other than removing their Fellowship from the College. This carries limited power as RACS is not the regulator for medical registration in Australia. Even though Informed Financial Consent is not legislated, patients are sometimes provided fee related documents to sign by their treating medical professional after explanation has been given. The MFCT's role should not be about setting fees, but to provide advice to consumers only.

To define what an egregious fee is paradoxically an act of setting fees. This might trigger the Australian Competition and Consumer Commission on issues relating to the setting of prices. Consent is also an issue if the patient or consumer have been properly informed, but they still wish to sign a document agreeing to the procedure and subsequent costs. In absence of any problems associated with the legal issue of capacity, a signed agreement is a signed agreement under the law. In summary:

- MFCT's responsibilities should be to provide advice and not set fees or instigate punitive measures against medical practitioners for alleged egregious fees.
- MFCT should not have judicial prosecution or punitive powers.
- MFCT can provide advice to a proper government authority for further action i.e., Department of Public Prosecution for any criminal offence or the Department of Human Services for any further audits.
- MFCT deliberations must be made in confidence with medical practitioners allowing to have access to their own legal representation.
- Principles of natural justice and appeal mechanisms must be adhered to.

Recommendation 8. & 9.

Quality health registries, standardise healthcare outcomes and patient reports, established data collection and sharing mechanisms.

RACS actively participates in surgical audits and advocates for their use as part of the continuing professional development program. Audits are fundamental to maintaining high surgical standards; they aid in improving and maintaining the quality of care for patients, the education of surgeons, and resource allocation and provision of surgical care.

The Taskforce proposes more clinical quality registries be developed. There is a national strategy and framework for quality care registry on the way via Australian Commission on Safety and Quality in Health Care. The problem with increasing the number of health registries is the cost of running them and getting good quality independent data which is expensive. Financial commitment from the Commonwealth Government is needed. These registries provide outstanding information and health service data for research and quality improvement within the Australian health care system.

The consent processes are very arduous when considering differing jurisdictions across the country. Ethical approvals for Quality Improvement registries should be simplified, standardised and streamlined, and applicable across jurisdictions and hospitals. The national Human Research Ethics Committee process is not functional for such registries. Recent experience on a clinical quality audit for emergency laparotomy showed that almost all hospitals required considerable effort to achieve site specific approval, and for many this was not possible to achieve over several years. There is also a need for a legal mechanism for setting up these registries, allowing opt out consent processes, standardisation of any privacy concerns and with adequate legal protection for the registry steering committees when dealing with outliers who provide suboptimal outcomes.

Outcome data is a critical component of ensuring continuous quality improvement within Australian healthcare and consideration should be given for the Medical Research Future Fund to assist in funding of key clinical quality registries. RACS has concerns regarding the use of this data in the public domain. This due to possible misinterpretation, inability to risk stratify, and the fact that public release of data has the potential to punish under-performing practitioners instead of using the registry data as tools for identification of issues that could be rectified so that the medical workforce is maintained but quality improvement occurs.

Recommendation 11

Evaluate and implement alternative funding models that complement the MBS.

RACS supports evaluation of differing funding models however, to date no funding model has proven to be ideal around the world with flaws in all methodologies thus far. We would strongly support surgical parity with physician consultations and there may be merit in time tiering of consultations including preparation time to review referrals, X rays and pathology and to complete dictations. Time tiering procedures may be worth exploring but may be open to possible manipulations and can't be reliably based on hospital data regarding length of procedures which could vary enormously. Independence of such a committee would be critical when looking at these possible funding solutions.

MBS services were increasingly being delivered via Telehealth. The taskforce evaluated Telehealth and its importance with supporting patient access. The use of phones was questioned by the Medical Specialist Services Section (MSSS) in relation complex consultations. In a recent meeting with the MSSS on 24 February, RACS representatives discussed the continuation of this service. Rural patients and doctors use phones because of poor internet connections. RACS was informed that Telehealth could continue if it were cost neutral and that cost estimates would reach '\$180 million over the next 4 years.' With one-third of Australia's 23 million people living in rural or remote locations , studies show that technological barriers "relate to the limitations or unreliability of internet connections."

RACS has studied the impact of telehealth during the pandemic with research and surveys demonstrating its usefulness and popularity from a large sample of surgeons (698 responses) and their patients (1125 responses) previously provided to the Department. Another vulnerable group apart from rural communities are Indigenous Australians who live in very remote Aboriginal communities. For example, "further expansion of telehealth in this and other areas of the Northern Territory (NT) is limited by the lack of adequate internet" despite the "growing evidence of the benefits of telehealth."

Recommendation 20

As a matter of urgency, establish a continuous review mechanism to ensure the MBS remains contemporary and responsive.

The Taskforce has informed RACS that the Minister for Health supports a continual MBS Review. There is unanimous support amongst RACS and other specialities for a continuous review mechanism with the Commonwealth government to provide funding for this in the next budget. The Medical Services Advisory Committee (MSAC) do not have the capacity, nor is it designed to conduct MBS

reviews because MSAC's primary focus is on health technology assessments. It is acknowledged that health technology assessments may not be necessary when reviewing all MBS items, and a pragmatic approach is needed to avoid delays in the reviewing of MBS services. MSAC, however, is considered a barrier due to the time taken to approve or reject submissions. Alternate review methods based on the principles of evidence-based medicine paired with clinical expertise, consumers and stakeholders will ensure a timely assessment of safety, efficacy and costs. For example, a rapid evidence-based review and economic evaluation should be able to take place like what has been done during the pandemic via the TGA for vaccine approval.

Recommendation 21

Establish a Medicare Advisory Committee (MAC) with Terms of Reference to include the current activities of MSAC with an enhanced focus on continuous review and the capacity to provide specific advice for the Minister.

Whilst RACS supports this initiative, the Taskforce has stated that there is no firm idea of how or when the MAC TOR will be created. At least 700 clinicians and consumers were involved in the MBS Review, and how this could be replicated with a new MAC is yet to be seen. The Principles and Rules Committee in the MBS Review was deemed valuable, and this could be duplicated by the new proposed committee. RACS supports further public consultations to provide insight in assisting with this committee and the redesign of the MSAC assessment process.

Thank you for the opportunity to comment on the Final Report to the Minister from the MBS review Taskforce. RACS looks forward to further engaging with the Minister and his government on any future developments and stands ready to assist Government in future Policy discussions.

Yours sincerely

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