ROYAL AUSTRALASIAN COLLEGE OF SURGEONS

INQUIRY INTO THE VALUE AND AFFORDABILITY OF PRIVATE HEALTH INSURANCE AND OUT-OF-POCKET MEDICAL COSTS

Response to Questions on Notice

August 2017

Thank you for offering the Royal Australasian College of Surgeons an opportunity to provide evidence as part of the Senate Community Affairs References Committee inquiry into the value and affordability of private health insurance and out of pocket medical costs.

Below are responses to the questions taken on notice at the public hearing on 5 July 2017.

What percentage of surgeons charge inappropriate or excessive fees?

There are over 5,500 surgeons in active practice in Australia. RACS has received anecdotal reports of a small number of surgeons charging excessive fees.

Noting the difficulty of defining what constitutes an 'excessive' fee, there are published fee structures which propose fair and reasonable fees. More than 95% of surgeons charge no gap or very little more than the scheduled fee and RACS estimates less than one per cent of the Fellowship charge 'excessively'.

How many complaints does RACS receive each year?

From January 2016 to July 2017 RACS received 225 enquiries or complaints. The vast majority of these relate to bullying.

How many complaints are related to excessive fees, what is the triage process and what have the outcomes been?

Since January 2016, RACS has received 17 enquires or complaints relating to excessive fees. Of these, five remain under review.

RACS considers it a professional responsibility of surgeons to obtain informed financial consent from their private patients. Where enquiries or complaints about excessive fees have been received, it is extremely rare that the surgeon has not obtained informed financial consent.

Where there has been a perceived breach of the RACS Code of Conduct, enquiries or complaints about excessive fees are referred to the College's Professional Conduct Committee for review. All relevant data including the item number, recommended AMA fee and the Medicare rebate is compiled and sent to the respondent with a request for an explanation within two weeks. The Professional Conduct Committee then reviews the response to determine if there has been a breach.

In some cases RACS has asked the patient and surgeon to discuss the fee to see if a resolution can be reached. Sometimes a patient will complain about a fee which they think is excessive but upon further investigation it is found to be fair.

RACS strongly supports full disclosure and transparency of fees as early as possible in the patient-doctor relationship and encourages patients to seek second opinions on recommended treatments and fees.

Are there jurisdictions where patients are encouraged to self-pay for private procedures in public hospitals?

RACS has received reports about some individuals in some hospitals encouraging patients to self-pay for private procedures in public hospitals, but we are not aware of this occurring at a systemic level.

RACS believes that access to care should be dependent upon need rather than ability to pay, and that this type of practice is inappropriate and unethical.

What progress has been made by the College in dealing with surgeon gaps?

Doctors who practise as private practitioners are regarded as carrying on a business and are therefore subject to the provisions of the *Competition and Consumer Act 2010*.

Anti-competitive conduct, such as market sharing or price fixing is not permitted by the Australian Competition & Consumer Commission, and RACS is not authorised to set surgical fees. We have limited investigative and punitive powers therefore RACS has adopted an educational approach, working with Medibank Private to develop five surgical variance reports for our membership covering some aspects of these surgeries: orthopaedic surgery, vascular surgery, general surgery, urology and otolaryngology. The reports assist in exploring variation in surgical practice (including fees) and allow clinicians and others to reflect on aspects of medical practice.

How many surgeons have been warned about excessive fees by the College?

The Professional Conduct Committee has provided feedback to two Fellows about how their communication style could be improved to strengthen the informed financial consent process.

How many surgeons have been sanctioned as a result of an excessive fees investigation?

No surgeons have been sanctioned in the past three years because the attainment of informed financial consent has been demonstrated in all cases.

Which craft groups have the highest gap fees?

There is variation in the cost of delivering healthcare between states, cities, parts of cities and rural areas, so it is difficult to answer this. There has also been an ongoing freeze on Medicare rebates while technological advancements, better medical products and other factors increasing the cost of healthcare delivery have continued.

The work RACS has done with Medibank Private is a limited dataset which has only examined a handful of procedures within five of the nine surgical specialties, being general surgery, orthopaedic surgery, vascular surgery, ear, nose and throat surgery and urology. All procedures would need to be reviewed, within the context of current best practice in each craft group, to report definitively on which craft groups have the highest gap fees.

What is the College's position on greater transparency of surgical outcomes and publicly available data?

RACS supports the public release of risk stratified patient outcomes based data on surgical performance at a team (larger than five), institutional or national level. The reports need to be valid, reliable and trustworthy so that surgeons and patients can be confident that reports accurately reflect the standards of health care.

The best way to deliver this information is to fund audits and registries, use agreed definitions for disease, procedures and outcomes, and ensure that everyone is able to understand, interpret and value the reports.