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Department of Health  
Natasha Ryan  
Assistant Secretary  
MBS Policy and Specialist Services Branch

Dear Natasha

**Early access to superannuation to cover the costs of medical services, including Medicare Benefits Schedule (MBS) listed services**

Thank you for providing the Royal Australasian College of Surgeons (RACS) with the opportunity to comment on proposed changes regarding early access to superannuation to cover the cost of medical services.

In principle, RACS does not support early access to superannuation for surgical procedures. Where there is a genuine need to treat a life threatening illness or alleviate acute or chronic pain or mental disturbance, RACS believes that this should be accessible via the public hospital system.

RACS makes the following comments and observations as it relates to this consultation:

**1. *Do you have any general observations on the use of superannuation for the purpose of paying for medical services?***

Where a surgical procedure is needed to treat a life threatening illness or alleviate acute or chronic pain or mental disturbance, RACS believes that this should be made available through the public hospital system.

In Australia RACS supports the [National Elective Surgery Urgency Categorisation Guideline - April 2015](#) which in conjunction with appropriate funding of elective surgery provides an equitable and evidence based approach to the management of elective surgery. Where a patient is experiencing life threatening, acute or chronic pain, surgeons can advocate to re-prioritise cases as appropriate, based on clinical grounds.

To support equity of access to surgery, we would support more funding to support elective surgery in the public hospital system and further efforts to develop preventative measures that reduce comorbidities and the need for surgery itself (i.e. healthy eating strategies to reduce obesity)

**a. *Have you observed any trends in the types of treatments that are being funded by superannuation benefits?***

While RACS does not have any specific information on this matter, informally some of our Fellows have observed an increase in surgery being funded via superannuation for some orthopaedic procedures, in particular those associated with chronic pain. Some have also indicated that there has been an increase in using superannuation to fund neurological/spinal procedures, often

associated with chronic pain requiring spinal fusion. Further, superannuation may be accessed to fund bariatric surgery and post weight-loss surgeries, which may not be covered by private health insurers or not available or accessible in the public hospital system.

- 2. In your view, when might such treatments be genuinely necessary to treat a life threatening illness or alleviate acute or chronic pain or mental disturbance (in general - noting that this will depend upon the specific circumstance of each case)**

RACS believes that where surgery is required to treat a life threatening illness or alleviate acute or chronic pain or mental disturbance, that this should be made available through the public hospital system.

We are aware that some patients may wish to have a specific surgeon undertake their surgery. We respect the patient's right to exercise this choice although we do not feel that this, in itself, provides sufficient grounds to access superannuation.

- 3. In practice, is the requirement that a treatment be necessary to treat a life threatening illness or alleviate chronic pain or mental disturbance a high threshold to reach?**

RACS does not feel that the threshold is too high. While we strongly advocate for independent clinical decision making by surgeons, we have received feedback from our Fellows that indicated guidelines around existing processes for approving access to superannuation could be better defined.

- 4. Are you aware of any instances in which you suspect practitioners have certified that a particular treatment is necessary to treat a life threatening illness or alleviate acute or chronic pain or mental disturbance without proper clinical basis?**

RACS does not have evidence to suggest that any of its Fellows has certified that a particular treatment is necessary to treat a life threatening illness or alleviate acute or chronic pain or mental disturbance without an appropriate clinical basis to do so.

- a. Do you think that the current regulatory arrangements are sufficient to guard against that sort of behaviour**

Clinical decision making is an integral part of our health system. Surgeons undergo years of training to learn how to make decisions about when to and when not to operate. However the current regulatory arrangements are such that it seems easy to gain approval to access superannuation funds, when certified by the treating surgeon. There is currently no requirement for another opinion from a surgeon who is not involved in providing the surgery which is deemed to fall within the allowable categories.

- 5. In respect of third parties engaged in the business of assisting applicants to access their superannuation upon medical grounds**

- a. Do any ethical or regulatory concerns arise where the medical provider certifying the applicant's claim has a commercial relationship with such a third party?**

RACS is aware of third parties working with patients to access funding for surgery, either via their superannuation or taking out a mortgage against their property. RACS does not support this practice. We are not aware of the specifics of these arrangements or whether the commercial relationship a surgeon has with a third party in any way influences their practice.

RACS Fellows are bound by the RACS Code of Conduct. This Code details a range of professional practices including ensuring disclosure to patients of any financial involvement the surgeon may have with third parties. The Code also requires Fellows to adhere to the RACS *Interactions with Medical Industry Position Paper*, which further details requirements relating to conflicts of interest and avoidance of such conflicts occurring.

**6. *Would payment for a medical service through access to superannuation have any influence on the fee charged by the provider for the service?***

It is possible that payment for medical services through superannuation may influence the fee charged, however RACS does not have any way of knowing how decisions concerning fees charged are determined. Fellows of RACS must comply with the RACS Code of Conduct, which states that surgeons must charge a reasonable fee that is not manifestly excessive, and must not take financial advantage of a patient.

**7. *Do you have any further commentary that may fall outside the scope of these questions?***

We do not have any further comment at this time; however given the importance of this issue to surgeons and our patients we would appreciate being kept abreast of any developments in this area.

We would again like to thank you for the opportunity to provide feedback on this important issue. If you have any questions or would like to discuss anything further, please contact me via the details listed above.

Yours sincerely



**Mr Lawrie Malisano**  
**Chair, Professional Standards**