

24 September 2013

Dr Joanna Flynn AM
Chair, Medical Board of Australia
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By Email: medboardconsultation@ahpra.gov.au

Dear Dr Flynn

Re: Draft Revised *Good Medical Practice: A Code of Conduct for Doctors in Australia*

Thank you for your email dated 1 August 2013 inviting comments in relation to the draft revised *Good Medical Practice: A Code of Conduct for Doctors in Australia* (the Code).

Established in 1925, MDA National is one of Australia's leading providers of medical defence and medico-legal advocacy services. With over 25,000 members, it works in close partnership with the medical profession on a wide range of issues which impact on medical practice.

MDA National supports the Code and has found it to be an invaluable reference when discussing the standards of ethical and professional conduct expected of our Members and the profession.

MDA National provides the following specific comments in relation to the draft revised Code:

- **3.4.4 Using consent processes, including forms if required, for the release and exchange of health information.**

It is not clear what circumstances this section is intended to cover that are not already addressed in sections 3.4.1 and 3.4.2 of the Code. Doctors are required to treat all information about patients as confidential and to comply with the *Privacy Act*. The use of the words "consent processes" and "exchange of health information" in this section lack clarity. In particular, the use of the term "consent processes" may cause confusion in relation to the next section of the Code on Informed consent. The term "exchange of health information" is not in current professional use. More commonly, doctors refer to "sharing" information with colleagues and providing patients with "access" to their health information in accordance with their obligations under the *Privacy Act*. It would be useful, therefore, to understand what circumstances this section is intended to address.

- **8.4.1 Keeping accurate, up-to-date and legible records that report relevant details of clinical history, clinical findings, investigations, information given to patients, medication and other management in a form that can be understood by other health practitioners.**

MDA National is concerned about the addition of "in a form that can be understood by other health practitioners" in this section of the Code. One of the main purposes of the medical record is to allow another medical practitioner to continue the management of the patient. In

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view of the broad range of registered health practitioners, it does not seem reasonable or even feasible for medical practitioners to have to ensure that their medical records are able to be understood by all other health practitioners. For example, is unlikely that an ophthalmologist would be able to ensure that his or her medical records were able to be understood by a podiatrist.

It would be problematic if medical practitioners had to record their notes in what may be "lay terms" to ensure all registered health practitioners could understand their content. MDA National submits that this addition not be included in the Code. Alternatively, if this phrase is to be added to this section of the Code, MDA National suggests that it should read "in a form that can be understood by other health practitioners, if feasible".

- **8.11.8 Not offering inducements, or entering into arrangements that could be perceived to provide inducements.**

MDA National notes that the words "to colleagues" has been deleted from this section. Although no definition of the term "inducement" is provided, MDA National is concerned that this section may suggest that a medical practitioner who offers to bulk bill or "no gap" a patient may be considered to be "offering inducements". Assuming the intention of deleting "to colleagues" is to broaden the reference to medical practitioners offering inducements, MDA National suggests that the phrase "to third parties" be included, in place of the deleted "to colleagues".

Thank you for the opportunity to provide feedback during this consultation phase. If you wish to discuss any of these issues further, please do not hesitate to contact me.

Yours sincerely



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