



AUSTRALIAN MEDICAL ASSOCIATION
 (SOUTH AUSTRALIA) INC.
 ABN 91 028 693 268

16 April 2019

Mr Chris Byron-Scott
 Deputy Registrar
 Administrative and Disciplinary Stream
 South Australian Civil and Administrative Tribunal

Dear Mr Byron-Scott

Re: Statutes Amendments (SACAT) Bill 2019 – AMA(SA) submission

Please apologise for the lateness of this submission from the Australian Medical Association (SA) regarding the Statutes Amendments (SACAT) Bill 2019. Unfortunately, we were only recently able to meet with representatives of SACAT to discuss the proposed changes, and our submission was necessarily informed by that discussion.

The AMA(SA) has significant concerns regarding section 109 of the draft bill 'Substitution of Part 3' beginning on page 38 of the Bill, and particularly the first section: '8-Participation of Assessors on Tribunal'. In paragraphs (1), (2) and (3) of this section the proposed changes reduce the number of health professionals on the panel of assessors from having two of four members in total, to one of three members in total. In cases involving doctors this will mean there is one doctor, rather than two doctors, on each panel, a significant reduction in proportional terms.

The AMA(SA) considers this to be inconsistent with the stated function of the Tribunal under the Health Practitioner Regulation National Law, which is, in large part, to make a determination as to whether a practitioner has engaged in professional misconduct, unprofessional conduct or unsatisfactory professional practice – and to make that determination in alignment with the views and perspectives of the practitioner's peers.

The definitions of these types of conduct as set out in the Definitions section of the Health Practitioner Regulation National Law (Schedule 2, Part 1, 5 pp.81-84) include, in each case, a requirement to measure whether the conduct or professional practice was 'substantially below the standard reasonably expected of a practitioner of and equivalent level of training and experience'. This is a determination that is most appropriately made by a health professional of the same profession as the practitioner before the tribunal.

While the importance of also having non-medical representation on the panel is fully appreciated, it is the AMA(SA)'s position that the reduction in representation by doctors of the panel will shift the balance of the panel away from one with equal representation of health and non-health practitioners, and ultimately dilute both the core functions of the Tribunal and the potential for successful outcomes based on profession-specific expertise and evidence.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'William Tam', with a long horizontal flourish extending to the right.

A/Prof William Tam
 MB BS, FRACP, PhD, AMA(M)
 President

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