

EXPLANATORY STATEMENT

ISSUED BY THE AUTHORITY OF

THE MINISTER FOR HEALTH

HEALTH INSURANCE ACT 1973

DECLARATION OF QUALITY ASSURANCE ACTIVITY

UNDER SECTION 124X

QAA No. 4/2016

Part VC of the *Health Insurance Act 1973* (the Act) creates a scheme to encourage efficient quality assurance activities. Those activities help to ensure the quality of health services that are funded by the Government, through Medicare benefits, the Pharmaceutical Benefits Scheme, Public Hospitals and/or Health Program Grants. The scheme encourages participation in such activities by protecting certain information from disclosure, and also by providing some protection from civil liability to certain persons engaged in those activities in good faith, in respect of those activities.

In order for Part VC to apply to an activity, the Minister must make a Declaration pursuant to Section 124X of the Act, that the activity described in the Declaration is a quality assurance activity to which Part VC applies. Regulations 23C to 23G of the *Health Insurance Regulations 1975* (the Regulations) set out the public interest criteria that must be met by quality assurance activities in order to be declared under the section 124X.

The Declaration is a legislative instrument for the purposes of the Legislative Instruments Act 2003. This Declaration has effect from the day after registration on the Federal Register of Legislative Instruments. Section 124X(4) of the Act prescribes that, unless sooner revoked, this determination ceases to be in force at the end of 5 years after the instrument of declaration was signed.

This declaration under subsection 124X(1) applies Part VC of the Act to the following activity:

1. The colorectal surgical Society of Australia and New Zealand (CSSANZ)
BiNational Colorectal Cancer Audit (BCCA)

An overview of the activity for which the Declaration pursuant to s124X is made is contained in **Attachment A**.

Before the Minister can make a declaration, certain requirements must be met.

Firstly, the Minister must be satisfied that the persons engaged in the activity are authorised to do so as described in paragraph 124X(3)(a) of the Act.

The activity meets the requirements of paragraph 124X (3)(a) in that the persons engaged in this activity are authorised to do so by the Colorectal Surgical Society of Australia and New Zealand which is an association of health professionals.

Secondly, paragraph 124X (3)(b) of the Act provides that the Minister must be satisfied that it is in the public interest to have Part VC of the Act apply to the activity. In doing so, the Minister must have regard to criteria prescribed by the Regulations. The criteria relevant to the activity are in regulations 23C, 23D and 23E or 23F.

The activity meets the criteria as follows:

- As required by regulation 23C, the activity includes the disclosure of non-identifying information that concerns the quality of service assessed, evaluated or studied. Information and a link to the annual audit report may be found at: <https://cssanz.org/bcca-database/>.
- Regulation 23D does not apply as the activity will be undertaken in more than one State or Territory.
- Regulation 23E does not apply as the activity has previously been engaged in Australia.
- Regulation 23F applies as the activity has previously been carried out in Australia. The Minister's declaration will encourage full participation in the activity by persons who provide health services by providing participants with a greater degree of confidence and security that their participation is solely to the benefit of establishing and improving quality assurance.
- Regulation 23G does not apply as the activity does not include the assessment or evaluation by a person of the services, skill or performance of a health practitioner for the purpose of determining the health care practitioner's clinical practicing rights.

CONSULTATION

This included an assessment of the potential value of declaring the activity as a quality assurance activity for the purposes of the Act, the methodology used to conduct the activity, and whether the application met the criteria required for declaration. Those consulted including Department of Health's Principal Medical Advisor, Doctor Andrew Singer.

The declaration of this activity will not result in any direct or substantial indirect effect on business.

The Declaration comes into operation on the day after registration on the Federal Register of Legislative Instruments.

As provided by subsection 124X(4) a declaration ceases to be in force at the end of 5 years after the instrument of declaration is signed, unless revoked earlier.

QAA No. 4/2016

ATTACHMENT A

OVERVIEW OF THE ACTIVITY

1. PURPOSE OF ACTIVITY

The BCCA is an audit of surgeons who treat patients with colorectal cancer. Patient demographics, treatment and outcome data are being collected. This allows surgeons to compare the outcomes to other surgeons throughout Australia and New Zealand in a de-identified, secure environment.

Participating surgeons become part of a quality information system designed to improve performance and quality of health care.

The objectives of the activity are:

- to facilitate clinical audit;
- participate in quality assurance activity;
- satisfy Clinical Professional Development (CPD) requirements;
- establish benchmarks;
- monitor surgical performance by peer review;
- facilitate research projects.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Declaration of quality assurance activity under section 124X of the Health Insurance Act 1973

QAA N^o: 4/2016

This Bill/Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

This Legislative Instrument declares an activity to be a quality assurance activity to which part VC of the *Health Insurance Act 1973* applies. Information produced solely for the purpose of this activity will be covered by qualified privilege.

Human rights implications

This Bill/Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Bill/Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

13.03.16



Prof Chris Baggoley

Chief Medical Officer