

## EXPLANATORY STATEMENT

### *HEALTH INSURANCE ACT 1973*

#### *Health Insurance (Quality Assurance Activity – RANZCP – Peer Review Groups) Declaration 2020*

Part VC of the *Health Insurance Act 1973* (the Act) creates a scheme to encourage efficient quality assurance activities in connection with the provision of health services. Those activities help to ensure the quality of health services that are funded by the Government, including through the Medicare Benefits Schedule, the Pharmaceutical Benefits Scheme, and 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.

Subsection 124X(1) of the Act provides that the Minister may, by legislative instrument, declare a quality assurance activity described in the declaration to be a quality assurance activity to which Part VC applies.

The purpose of the *Health Insurance (Quality Assurance Activity – RANZCP – Peer Review Groups) Declaration 2020* (the Declaration) is to declare the Royal Australian and New Zealand College of Psychiatrists (RANZCP) – Peer Review Groups (PRGs) activity to be a quality assurance activity to which Part VC of the Act applies.

The activity will be engaged in by the RANZCP, which is the organisation responsible for training, educating and representing psychiatrists in Australia and New Zealand. The quality assurance activity described in this declaration applies only to health services provided in Australia.

PRGs enable psychiatrists to work in small, self-selected groups of peers to review and assess their practice and receive feedback from other participants in a confidential setting conducive to open dialogue. The aim is to provide continuous improvement of the quality of psychiatric practice, improve outcomes for individual patients, and provide for the critical and confidential review of psychiatry practice by peers to achieve the following objectives:

- Provide the opportunity and incentive for psychiatrists to engage in a confidential peer review quality improvement activity to review their own work and receive feedback to encourage best possible evidence-based practice and improve outcomes to individual patients,
- Encourage psychiatrists to seek advice and the assistance of their peers and work with others to improve practice and outcomes for patients in an environment conducive to discussing their concerns and problems in relation to their work.

Participants in PRGs include mostly psychiatrists and can include Fellows, Affiliates and Associates of the RANZCP, and individual doctors (who are not necessarily psychiatrists). In some circumstances, other health professionals such as psychologists or mental health nurses can also participate.

The RANZCP surveys PRGs annually and collates this information into reports to show trends in the types of issues raised, recurring themes encountered by PRGs, and the extent to which the activity informs clinical practice. No identifying data is collected in this process and these reports are circulated internally and as relevant to medical councils and government departments. RANZCP publicly reports de-identified information presented at RANZCP meetings about recurrent themes identified in PRGs, as well as recommendations to inform changes to psychiatric clinical practice, and the effectiveness of implementing those recommendations. RANZCP provides copies of these reports and findings to the Minister, or the delegate of the Minister, during the course of undertaking this activity.

Details of the Declaration are set out in **Attachment A**.

## **CONSULTATION**

RANZCP, as the applicant for declaration of the activity, was consulted in relation to the content of the Declaration.

Further consultation was not considered necessary as the quality assurance activity relates to the conduct of the PRGs activity, which is an activity undertaken by the RANZCP.

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

The Declaration commences on the day after registration on the Federal Register of Legislation.

The Declaration is a legislative instrument for the purposes of the *Legislation Act 2003*.

**Section 1 – Name**

This section provides for the Declaration to be referred to as the *Health Insurance (Quality Assurance Activity – RANZCP – Peer Review Groups) Declaration 2020* (the Declaration).

**Section 2 – Commencement**

This section provides that the Declaration commences on the day after it is registered on the Federal Register of Legislation.

**Section 3 – Authority**

This section provides that the Declaration is made under subsection 124X(1) of the *Health Insurance Act 1973*.

**Section 4 – Cessation**

This section provides that the Declaration will cease to be in force at the end of 5 years after the date on which it is signed. Subsection 124X(4) of the *Health Insurance Act 1973* provides that a declaration of a quality assurance activity ceases to be in force at the end of 5 years after it is signed, unless sooner revoked.

**Section 5 – Schedule**

This section provides that the activity described in the Schedule is declared to be a quality assurance activity to which Part VC of the *Health Insurance Act 1973* applies.

**Schedule 1 – Description of quality assurance activity**

The Schedule provides that the name of the activity is ‘Royal Australian and New Zealand College of Psychiatrists– Peer Review Groups’. It describes the quality assurance activity as participants meeting in small, self-selected groups of peers for the critical and confidential review of psychiatric practice by their peers.

## **Statement of Compatibility with Human Rights**

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

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2020*

This Declaration 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**

The *Health Insurance (Quality Assurance Activity – RANZCP – Peer Review Groups) Declaration 2020* (the Declaration) declares the Royal Australian and New Zealand College of Psychiatrists – Peer Review Groups to be a quality assurance activity to which Part VC of the *Health Insurance Act 1973* (the Act) applies. Information known solely as the result of conducting the activity, or documents created solely for the purposes of the activity, will be covered by qualified privilege.

### **Human rights implications**

This Declaration engages the right to health as set out in Article 12 of the International Covenant on Economic, Social and Cultural Rights by assisting with the progressive realisation by all appropriate means of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

The Qualified Privilege Scheme established by Part VC of the Act is aimed at encouraging participation in quality assurance activities that help ensure the highest possible health care standards are maintained. The quality assurance activity described in this Declaration will provide participants with a greater degree of confidence and security that their participation is solely for the benefit of establishing and improving outcomes of community health care.

This Declaration also engages, but does not limit, the right to privacy as contained in Article 17 of the International Covenant on Civil and Political Rights by involving the collection, storage, security, use, disclosure or publication of personal information. Data collected as part of the quality assurance activity will be de-identified to ensure that no individual or individuals are identified prior to analysis or disclosure of the information.

### **Conclusion**

This Declaration is compatible with human rights as it promotes the right to health and does not limit the right to privacy.

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