Submission re Proposal of Mandatory Health Checks for Doctors Over 69 Years.

1. ***Should all registered late career doctors (except those with non-practising registration) be required to have either a health check or fitness to practice assessment? If not, on what evidence do you base your views?***

I do NOT believe that the MBA has provided sufficient evidence to make the case for doctors over 69 years of age to have mandatory health checks in order to continue their medical registration. I base my statement on the following points:

(i) "Notifications" do not equal "danger to patients." The MBA's claim that there is a marked increase in the number of notifications regarding the practice of doctors over 69 years is spurious. The Consultation Regulation Impact Statement (CRIS) makes the comment: "*In 2023, notifications about late career doctors were 81% higher than for doctors under 70 years of age."* However, ***Figure 10*** of the CRIS[1] shows that the **notifications for doctors over 69 years resulted in less serious levels of regulatory action:**

Figure 10 of CRIS **(table instead of graph with my highlighting):**

Under 70yrs:	**70 yrs and older:**
Caution: 4.55%	Caution: 6.55% (ie only 2% higher)
Accept undertaking:1.34%	Accept undertaking: 1.64% (ie only 0.3% higher)
Impose conditions:7.17%	Impose conditions: 14.99% (i.e. 7.82% higher)
Fine Registrant: 0.08%	**Fine Registrant: 0%**
Reprimand: 0.39%	**Reprimand: 0%**
Suspend registration: 0.25%	**Suspend registration: 0**

Figure 10 clearly indicates that no doctors aged over 69 years received one or more of the top 3 most serious categories of regulatory action. **This could imply that doctors aged over 69 years were, in fact, safer than those under 70 years.**

(ii) **The numbers of notifications are not high overall: 168 out of almost 7,000 doctors** aged over 69 years in 2023 **is not a large number**. In fact, it is **only 2.4% of doctors in this age group who have had notifications – so 97.6% have an unblemished record.** It is disappointing that the MBA did not provide more detail about the 168 notifications – especially since Dr Tonkin, in an interview with Paul Smith of *Australian Doctor (AusDoc)*[2] says "it is common for some older doctors to receive multiple notifications." **How many individual doctors were involved out of those 168 notifications?** How serious were the impacts on patient outcomes? Given that no doctors aged over 69 years received one or more of the top 3 most serious categories of regulatory action, it is highly likely that **the notifications were about relatively minor issues**, and those doctors were not putting patients at serious risk, otherwise stronger regulatory action would have been taken. Unfortunately, the MBA has not provided this level of detail, which they could have done had they wished.

The CRIS states[3]: "*There is also **strong evidence** that there is a decline in performance and patient outcomes with increasing practitioner age, even when the practitioner is*

[1] Consultation Regulation Impact Statement (CRIS) Pg 23

[2] *Australian Doctor* Magazine – Paul Smith – 16/8/2024 : "Will GPs really want to do mandatory health checks on their fellow doctors? *AusDoc* asks the Medical Board chair – Anne Tonkin."

[3] CRIS Pg 4

highly experienced." (My highlighting.) Having read the CRIS document in detail, I do NOT believe that this alleged "strong evidence" exists to the extent that the MBA claims. **The CRIS document catastrophises risk and minimises the impacts on older doctors of mandatory health checks in order to push its case for this highly invasive intervention.**

(iii) **Mandating an intervention on the basis of age alone is "ageism" and hence, discriminatory.** The MBA has not taken into account other indicators that a doctor could be more likely to receive a notification, such as: (a) one or more previous notifications; (b) the level of seriousness of the regulatory action taken (if any); (c) the specialty in which the doctor works; and (d) how isolated the doctor is from colleagues with whom they could discuss clinical and/or administrative issues. It would make more sense to mandate health checks for doctors who tick several of these boxes, not just the "age" box.

(iv) **The MBA's data show that 97.6% of doctors over 69 years are consistently practising medicine in a safe and professional manner.** This is a situation where the same statistics can be used to either prove there **IS** or there **IS NOT** a problem that needs an obligatory government-mandated "solution". So **why should at least 6,832 doctors have to go through a mandatory, time-consuming, humiliating and relatively expensive process** when they have an unblemished record and are making an extremely important contribution to the dire situation of doctor numbers in our nation, especially in regional, rural and remote settings?

(v) **The MBA has not demonstrated that doing regular health checks WILL lead to less notifications. Likewise, the MBA has not proven objectively that the small number of increased notifications is directly related to health or cognitive impairments.** When challenged on this issue by Paul Smith, Anne Tonkin[4] simply says: "We know that **sometimes there is a health issue that contributes to the notification."** (My highlighting.) Sure – **sometimes** health issues are the problem, but clearly, many other times, health is not the most significant contributor. The MBA needs to give a much better breakdown of **how many notifications in ALL age groups are due to physical or mental health impairments** so that ALL doctors who are vulnerable and/or impaired can get the best support they need.

(vi) **The costs of a mandatory health screens would be met by the doctor-patient alone.** The MBA not only **refuses to provide a tiered approach to its annual fees** (i.e. lower fees for those working less hours), but the CRIS[5] states that **doctors would be required to pay all costs related to mandated health checks**, which could amount to $250 – $6,000 each time, depending on which of the options was recommended/adopted by the Board. When challenged about this added outlay for doctors (on top of medical registration, indemnity insurance, CPD costs and the expenditure related to running a practice, etc) Anne Tonkin[6] made the outrageous comment that **"most doctors bulk-bill other doctors."** This comment is very inaccurate and indicates that **Anne Tonkin, and possibly the whole MBA, are out of touch with current medical practice costs.** I haven't been routinely bulk-billed by all medical colleagues for several years, and it would be very unfair to the treating doctor to expect them to cover the loss of their time and income by foregoing payment for an extensive health check, especially if it were being

[4] Ibid

[5] Consultation Regulation Impact Statement (CRIS) Pg 44 and ongoing.

[6] *Australian Doctor* Magazine – Paul Smith – 16/8/2024 : "Will GPs really want to do mandatory health checks on their fellow doctors? *AusDoc* asks the medical board chair – Anne Tonkin."

repeated regularly (which is the MBA's intention after all). Just because Dr Tonkin's own GP may feel obliged to bulk-bill her does not mean that her claim has any credibility more widely whatsoever.

(vii) **Since the "health checks" proposed will actually be "fitness to practice checks", they may come under the category of "work-related medicals" and may therefore not meet the criteria for Medicare-rebateable services.** This issue needs to be clarified by AHPRA and the MBA before this inquiry goes any further, since costings may need to be adjusted and include GST as well.

(viii) **Currently, no other country-wide jurisdictions around the world mandate regular health checks on doctors purely on the basis of age.** This is probably the case because doing so would be considered **"ageist" (which it is).** Rather, health checks are reserved for those who have already shown evidence of "unsafe" practices on the basis of several risk factors, not age alone.

(ix) Anne Tonkin[7] made the statement: "**What we're talking about [with mandatory health checks] is trying to prevent the potential harm that led to the notification coming in the first place.** That's why this is different. This is much more along the lines of screening." (My highlighting.) **However, the MBA has no evidence that this "screening" WILL prevent notifications. It would make more sense to run a pilot program for several years,** with doctors voluntarily signing up, to discover whether or not regular health checks result in fewer notifications across all age groups. **This would provide "real life evidence" that health checks could indeed "keep patients safe."**

(x) Anne Tonkin[8] states that: "the reporting threshold for the GP in the context of a mandated health check would be no different from the threshold to report a doctor-patient now." **Exactly. So why not continue to rely on the current reporting criteria? The MBA already has mechanisms to deal with complaints and notifications** and these apply to doctors in all age groups. Additionally, **there are existing mechanisms to deal with practitioners who have health issues that could impact on their practices.** In fact, the medical profession is already **overcrowded with excessive regulations. We do not need more rules and requirements** that have little basis in the real world, will not increase patient safety, are discriminatory, and will further erode goodwill across the profession.

(xi) Doctors' attitudes to AHPRA and the MBA[9] also deserve examination, as once again, **the same regulatory agencies that are proposing more strictures on doctors will not be providing additional supports for them.** In 2021, medical practitioners with "positive perceptions" of the MBA were only 41% of doctors surveyed, "trust" only 38% and "confidence" only 40%. In terms of support from **AHPRA and the MBA**: **53%** of doctors surveyed rated the support they had received from these agencies as **Fair, Poor or Very Poor.** So the very agencies that propose to burden doctors with more regulations are rated very poorly compared with the doctors they are trying to regulate. **It reminds me of the edict: "Take the log out of your own eye before you try to take the speck out of your brother's eye."[10]**

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[7] Ibid
[8] Ibid
[9] "Reputational Insights of AHPRA in 2021 Survey."
[10] Luke 6: 42b

(xii) Similarly, doctors who distrusted AHPRA and the MBA[11] viewed the organisations as **agents of punishment, where staff were unjust**, **influenced by government, and outdated, disengaged figureheads with a perceived stance of "guilty until proven innocent."** Practitioners who distrusted AHPRA also highlighted the **costs of registration versus a lack of return.** In response to this **avalanche of negative feedback,** the only comment in the report by AHPRA and the National Boards was that these issues **"warrant further investigation."** Unfortunately, **they don't recommend "<u>further mandated action</u> that AHPRA and the MBA are required to take to improve the standard of their services for practitioners."**

(xiii) It's such a shame that AHPRA and the MBA are more than ready to force further regulations on doctors, with no additional supports, despite the appalling levels of trust and confidence that these agencies engender already. I would suggest that **AHPRA and the MBA could spend more time and effort building a better rapport with doctors** and listening to our feedback around the regulations we already have to deal with, rather than coming up with yet another unilateral policy to "assess" doctors, whilst devaluing the contribution so many of us make to the health of Australians. **At the very least, this latest proposal should be shelved until a pilot program is run to ensure that it is unquestionably effective.**

(xiv) **If the MBA DOES elect to go ahead with mandatory health checks for late career doctors, this should include "doctors with non-practising registration" also, such as doctors on the AHPRA and MBA boards.** Since Anne Tonkin and her colleagues think that mandatory health checks are such a good idea for everyone else, they should be prepared to profit from the policy too. Afterall, Dr Tonkin[12] refers to the mandatory "health checks" as a "win-win", so we wouldn't want her or her colleagues' own health issues or cognitive decline to impact on their policy developments, and they would be able to experience the touted "benefits" of the "win-win" policy for themselves.

<u>In summary</u>: Mandatory health checks for ALL doctors over 69 years is a "solution" in search of a "problem" that the MBA has not adequately proven really exists.

2. ***If a health check or fitness to practise assessment is introduced for late career doctors, should the check commence at 70 years of age or another age?***

I believe any such assessment should not occur before 75 years of age at the earliest, when the government already funds Health Assessments through Medicare (although the proposed "health checks" may or may not meet the criteria of Medicare rebateable items.) That way, treating doctors are adequately remunerated for their work through Medicare, and the doctor-patient is being treated like other community members. I still consider that **health checks should be voluntary, and only mandated where there is additional evidence that a doctor may have "unsafe" practices**, either noted by practice colleagues or because they have already come to the attention of the MBA.

As mentioned previously, the MBA has NOT adequately proven that there's a sufficiently serious risk to patient care for them to recommend that ALL doctor over 69 years should be obliged to go through a health check.

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[11] "Reputational Insights of AHPRA in 2021 Survey."

[12] *Australian Doctor* Magazine – Paul Smith – 16/8/2024 : "Will GPs really want to do mandatory health checks on their fellow doctors? *AusDoc* asks the medical board chair – Anne Tonkin."

3. Which of the following options do you agree will provide the best model? Which part of each model do you agree/not agree with and on what evidence do you base your views?

Option 1 ***Rely on existing guidance, including Good medical practice: a code of conduct for doctors in Australia (Status quo).***

Option 2 ***Require a detailed health assessment of the 'fitness to practise' of doctors aged 70 years and older every three years for doctors from the age of 70 and annually for doctors from the age of 80.***
These health assessments are undertaken by a specialist occupational and environmental physician and include an independent clinical assessment of the current and future capacity of the doctor to practise in their particular area of medicine.

Option 3 ***Require general health checks for late career doctors aged 70 years and older every three years for doctors from the age of 70 and annually for doctors from the age of 80.***
The health check would be conducted by the late career doctor's regular GP, or other registered doctor when this is more appropriate, with some elements of the check able to be conducted by other health practitioners with relevant skills, e.g., hearing, vision, height, weight, blood pressure, etc.

I believe that Option 1 is the most appropriate. As I have already indicated in my answers to Q1, the fact that more than **97.6% of doctors are safely practising medicine over 69 years of age** indicates that the risk to patients posed by older doctors is very small indeed compared with the very great benefit that these doctors currently provide. **Health checks should be reserved for doctors in higher risk groups,** i.e. those who have **already had 1-2 notifications**; those with **serious restrictions** following a notification; those who **work in isolation**; and those who work in particular **high-risk sub-specialties** that the MBA can designate.

The CRIS document[13] states: "*Given that the Board receives a disproportionate number of notifications about older practitioners, particularly around physical and cognitive impairment, the existing guidance in the Code of conduct and 'behavioural insights' have not had the desired effect."* In addition, the document states:[14] "*While it is difficult to quantify the costs to patients of sub-optimal care, which can range from delayed access to adequate care, through to* ***catastrophic outcomes****, the research supports the Board taking additional action beyond existing regulatory requirements, particularly because* ***the current arrangements are not preventing impaired late career practitioners from practising."*** (My highlighting.)

Once again**, I do not accept that the numbers are high enough to require health checks for ALL doctors aged over 69 years**, let alone the statement that "*impaired late career practitioners"* should be *"prevented"* from working at all. That would be **considerable overreach by the MBA**, since "impairment" can range from very minor to very major, and, if it is minor and well managed, it is not appropriate for ALL such doctors to cease from ALL work.

Clearly, the comment above about **"catastrophic outcomes" is exaggerated and does not apply** since there would have been more serious regulatory action taken by the MBA if that were the case – and the CRIS evidence of ***Figure 10*** **indicates that this has not occurred.** Throughout the CRIS, **the MBA's language catastrophises the risks** of medical care by older doctors, and **understates the significant**

[13] CRIS Pg 35
[14] CRIS Pg 43

and safe contribution that such doctors have provided over many years. This is **blatantly "ageist" and unfair**, and should be challenged in the strongest possible terms.

Option 2 is clearly ridiculous. In her interview with *AusDoc,* Anne Tonkin[15] readily dismisses this Option as **too expensive, not readily available** to many practitioners (the CRIS points out there are only about 300 practitioners who could perform these assessments and they almost invariably reside in metropolitan areas), and **there is likely to be an enormous push-back by doctors against such a "disproportionate" option** (Anne Tonkin's own word). **I suspect Option 2 was only included in the CRIS to make Option 3 appear more palatable to a wider range of doctors.**

Option 3 is clearly the MBA's preference. However, as stated already, I do not believe that the MBA has provided sufficient evidence to make the case for all doctors over 69 years to be required to have mandatory health checks in order to continue their medical registration**.** In addition, once introduced, **the number of elements to be included in the "health check" can be successively increased** whenever the MBA unilaterally decides more boxes need to be ticked.

Anne Tonkin[16] contradicts herself by stating in one section: "**Most of the late career doctors will have an established relationship with their GP. The GP may well have been doing health checks that would tick most of those boxes already."** But she then states that health checks are being aimed at "doctors who somehow [haven't] got around to seeing [their] own GP for 10 years."

If a doctor DOES already see their own GP at least once or twice a year, is having any health impairments or risks addressed, and the patient-doctor is prepared to state this if/when asked on their registration renewal, why should ALL older doctors be required to do an MBA-mandated health check that includes so many elements? **The CRIS does not adequately answer this question.**

A more reasonable requirement would be to ask doctors on their registration update whether they have their own GP who they attend at least once per year. This ensures that doctors who "somehow [haven't] got around to seeing [their] own GP for 10 years" are being picked up, and **those that are already collaborating with their doctor to attend to health issues are not subject to more unnecessary regulation.** As we know, however, adding more regulation fuels the reason for the existence of regulatory agencies, so as a general rule, they will rarely, if ever, reduce the regulatory burdens they place on those who are subject to their decisions.

In addition, having stated that 26% of doctors across ALL ages are reluctant to see treating doctors about their health care, the CRIS document[17] then hones in on this statement: "While a reluctance to look after their health and particularly the fear of finding something adverse is understandable, **the Board is concerned that late career doctors are not regularly seeking necessary medical care**, given that health challenges escalate with age." (My highlighting.) This is an **unsubstantiated claim** that has no statistical evidence to back it up. **The CRIS document does NOT demonstrate that a large proportion of older doctors fail to "regularly [seek] necessary medical care"** and therefore put patients at risk.

Similarly, the **CRIS data does NOT show that health checks will definitely reduce the number of notifications.** This begs the question: If mandating health checks does NOT reduce the number of notifications concerning older doctors, **will the MBA reverse its policy and recommend a return to the current *status quo?*** If not, this will demonstrate that **the policy is fundamentally ageist and not**

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[15] *Australian Doctor* Magazine – Paul Smith – 16/8/2024 : "Will GPs really want to do mandatory health checks on their fellow doctors? *AusDoc* asks the medical board chair – Anne Tonkin."

[16] Ibid

[17] CRIS Pg 32

evidence based after all. And since the CRIS notes that the **MBA only reviews it decisions every 5 years**, by the time a review had occurred, **thousands of doctors would have retired earlier than planned and their contribution could never be recovered.**

Regarding mature and older workers, the **Human Rights Commission** states[18]: *"The Commission's "Willing to Work Report", published in 2016, makes it clear that many mature and older Australians are willing and able to work but are prevented from doing so by age discrimination and a lack of positive policies and supports."*

The unilateral push by the MBA for mandatory health checks of ALL doctors who over 69 years is exactly that: **age discrimination, and it does not provide adequate balancing policies and supports** for the 7000 doctors who currently provide essential services across our nation. Therefore **this push is not in the best interests of doctors, patients or communities.** Older doctors are often willing to work in sectors where younger doctors are loathe to participate. This includes **teaching medical students and/or GP registrars, doing home visits for disabled/elderly/palliative patients, and attending Residential Aged Care Facilities**, where the increasing regulatory demands there are resulting in a mass exodus of doctors from these essential services. **The refusal by AHPRA/MBA to consider tiered registration fees** for those who work part-time, and now their **unilateral push for mandatory health checks purely on the basis of age,** will yet again result in doctors feeling diminished and their contributions belittled.

The CRIS document also states[19]: *"Some late career doctors may feel offended and that their professionalism is undermined if they are required to undergo mandatory regular health checks… There **may be a small number of occasions where this would impact on the availability of doctors in particular regions**, however, it is difficult to specifically attribute this to the outcomes of a health check, compared with the general propensity to retire with increasing age."* (My highlighting.) In other words, **the MBA is trivialising the loss of access to medical services** that will result from doctors retiring earlier from their work because of **their unwillingness to submit to yet another instance of MBA regulatory and bureaucratic overreach.**

The MBA uses the pretext "to protect the public" to fuel their agenda, even if it results in the second element of their charter: "facilitating access to services in the public interest"[20] being minimised. It seems **the MBA has little insight or interest into the supply issues that will arise** when they add further regulatory burdens and costs onto older doctors who then decide to retire earlier than they may have done otherwise. Colleagues with whom I have discussed this proposal, as well as **I, would certainly NOT be prepared to go through such health checks** (despite the fact that I attend my own GP at least six times each year) **because we believe the two hour[21] "health check" constitutes unreasonable overreach by the MBA.** This will lead to **a large number of doctors** who have never had notifications **resigning from work before 70 years of age** and hence the **pre-emptive and MBA-driven loss of access to important medical services for many Australians** at a time where there are already critical shortages of doctors in many areas.

In our rural area, my husband and I (both GPs) care for 70 residents at 5 nursing homes, often accepting the care of people who have asked at 8 or more practices for a GP who will accept their care. These people are desperate and very anxious. If the mandatory health check is introduced, in the near future as we both approach 70, we will resign from these 5 RACFs. (We had previously

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[18] https://humanrights.gov.au/our-work/age-discrimination/about-age-discrimination
[19] CRIS Pgs 55 – 56
[20] CRIS Pg 32: " The Board must prioritise its responsibilities to protect the public while facilitating access to services in the public interest."
[21] CRIS Pg 52

intended to continue this work for another five to seven years.) **What does the MBA intend to do about "facilitating access to services in the public interest" so that these 70 patients** (and thousands more like them in the very near future) can **continue to receive medical care** at this time in their lives of heightened health impairments and end-stage care. **Instead of pursuing further regulation for older doctors, perhaps the MBA could spend more time and effort on "facilitating access to services in the public interest" for older Australians,** especially those in rural and remote communities.

4. ***Should all registered late career doctors (except those with non-practising registration) have a cognitive function screening that establishes a baseline for ongoing cognitive assessment? If not, why not? On what evidence do you base your views?***

   I do NOT think that late career doctors should be forced to have cognitive functional screening. The CRIS already points out that early cognitive impairment is difficult to detect[22] and anyway, since it would be compensated for by the long experience of practising medicine, any such early decline would not be "putting patients at risk." **The argument that doing early screening would "provide a baseline" is spurious.** This argument could be applied to almost any intervention that the MBA decided to impose, and **represents considerable overreach yet again**, when the MBA's role is to "keep patients safe" – NOT to interfere in the health decisions of thousands of doctors who are competently providing excellent care for their patients. **We already have mandatory reporting requirements** for doctors in Australia to ensure that ALL doctors are practising safely. **Let's stick to those.**

   Regarding cognitive assessments, Anne Tonkin comments[23]: *"If you're talking to somebody and taking a history from them and they can't tell you what happened yesterday, they don't remember what their past history was, they start repeating themselves — that's obviously important."* Her attempts to allay the concerns of doctors who may be forced to have cognitive assessments to "establish a baseline" are clearly bizarre. The example she gives is likely to be someone with moderately severe cognitive impairment who may well require mandatory reporting. It seems that, despite being the Chair of the MBA, **Dr Tonkin seems to have a poor understanding of the difference between a screening test** to establish a baseline of cognitive function **versus a symptomatic person with probable moderate-to-severe cognitive skills.**

   Dr Tonkin uses another slanted and inaccurate example[24] to try to justify mandatory health checks: "I just keep going back to that question — if someone comes up to me in five years' time and says, 'My mother had a really bad outcome from **this surgery done by a surgeon who's 83** and **has had a problem with their ability to do surgery** and **nobody had done anything about it,** why not?' And I say, 'Oh, it was too hard to ask people to do **an hour's health check every third year.**'" (My highlighting.) Firstly, Option 3, if adopted (and clearly Anne Tonkin's preference), would require this surgeon to undertake a **TWO PLUS** hours' "health check" **EVERY YEAR** since he is 83 – not "an hour's health check every third year." Secondly, she herself notes the surgeon was already known to have "a problem with their ability to do surgery" – this should have been picked up by mandatory reporting requirements – not by an annual "health check". Thirdly, her comment that: "nobody had done anything about it, why not?" ignores the current requirements where hospital staff and/or medical colleagues are presently required by law to "do something about it" – i.e. make a mandatory report about this doctor. So, her example still confirms that current legislation should have had the desired outcome in this hypothetical

[22] CRIS Pg 39

[23] *Australian Doctor* Magazine – Paul Smith – 16/8/2024 : "Will GPs really want to do mandatory health checks on their fellow doctors? *AusDoc* asks the medical board chair – Anne Tonkin."

[24] Ibid

example, and **she does not make the case any more strongly for regular mandated "health checks" by this "case."** If not even the chair of the MBA can come up with an example where mandated health checks will definitely prevent patient harms, then **clearly such checks are not going to have the outcome that the MBA is claiming.**

In addition, the statement in CRIS[25] that: "there is an ongoing **reluctance for some doctors to have their own GP.** Therefore, the Board does not consider a 'nudge' could achieve the desired outcome of all late career doctors looking after their health **without imposing new mandated requirements**." (My highlighting.) This statement once again demonstrates the crossover by the MBA from ensuring that Australian doctors are practising safely into the new and frankly **Orwellian territory of mandating that "late career doctors [look] after their health" in the way that the MBA determines must happen. I find this repugnant in the extreme.** It is well beyond the remit of the MBA to force doctors to attend detailed assessments for no other reasons than their age. I will continue to oppose such moves in whatever ways I can for the sake of myself and my respected older colleagues.

5. ***Should health checks/fitness to practice assessments be confidential between the late career doctor and their assessing/treating doctor/s and not shared with the Board?***
Note: A late career doctor would need to declare in their annual registration renewal that they have completed the appropriate health check/fitness to practice assessment and, as they do now, declare whether they have an impairment that may detrimentally affect their ability to practise medicine safely.

Of course, health checks should be confidential between the doctor- patient and their GP. This is an inane question, and any move to force either the doctor-patient or the treating doctor to disclose confidential details of the doctor-patient's health (apart from those that reach the mandatory reporting threshold) is entirely offensive.

Note in several questions, the term "health check" is being interchanged with the term "fitness to practice assessment". The CRIS and the MBA's terminologies have surreptitiously moved from the idea of a "health check" as just being in the best interests of the doctor-patient's health to **an assumption that the doctor- patient is NOT "fit to practice" UNLESS their mandatory checks prove otherwise.** How insidious and inappropriate! Just remember this whole issue arose because the MBA considers 168 notifications per 7000 doctors as "too high" and claims that mandatory action by them is needed to "keep patients safe." So, having at least 97.6% of doctors with unblemished reputations is not enough: what are we aiming for here? 98%? 99%?

Anne Tonkin[26] also refers to requirements that **"pass the pub test".** I was not aware that the MBA actually does "pub tests," but if they do, I'd be interested to know the results. Would the fact that 97.6% of doctors over 69 years who have **never had any complaints against them** but could now be forced to go through mandatory health checks **"pass the pub test"?** What about the negative experiences of doctors who go through "notifications"? For example, the comment[27]: "The time taken to handle complaints with the associated psychological [effects] is appalling. I sold my practice and stopped working full-time during a complaint against me, which was resolved three years after I sold, and the complaint was dismissed." **Would the treatment**

[25] CRIS Pg 43
[26] *Australian Doctor* Magazine – Paul Smith – 16/8/2024 : "Will GPs really want to do mandatory health checks on their fellow doctors? *AusDoc* asks the medical board chair – Anne Tonkin."
[27] "Reputational Insights of AHPRA in 2021 Survey."

of this doctor "pass the pub test"? Does the MBA's cancelling of a GP's registration for 5 years on the basis of the doctor's political opinions expressed on their **PRIVATE** social media account, but who's never had a complaint about their clinical competence, **"pass the pub test"?** (We'll be hearing the outcome of this case in October – I hope the court finds in favour of the doctor and the MBA will have hefty fines and strict regulations imposed upon its misuse of "emergency powers.")

When we consider whether the MBA has an appropriate balance between protecting patients and supporting doctors, **does the fact that 53% of surveyed doctors rated the MBA's support as Fair, Poor or Very Poor "pass the pub test"?** I doubt it! Or other comments[28]: "[There are] too many patients making vexatious claims against practitioners causing undue stress. Not enough support of professionals" AND "the perceived stance of 'guilty until proven innocent'" – **do these experiences of doctors at the hands of the MBA "pass the pub test"?**

I suggest that the MBA's assumption that doctors are "unfit to practice medicine" over the age of 69 unless they have gone through a mandatory "health check/ fitness to practice assessment" is deeply unfair, unproven, and once again, demonstrates considerable bureaucratic overreach. I hope this plan is firmly rejected as being ageist and an inappropriate way to treat colleagues who have contributed so much to the health of their fellow Australians and deserve more respect and support in the lead-up to their well-earned retirement.

In conclusion, the MBA would do better to spend more time considering how to improve the time taken for doctors to go through the notifications process, increase their support mechanisms for practitioners, and provide a better cost/benefit balance for those of us who have to pay ever increasing annual fees, regardless of hours that we have worked. Such actions might indeed "pass the pub test"!

6. ***Do you think the Board should have a more active role in the health checks/fitness to practice assessments? If yes, what should that role be?***
   No.

7. ***The Board has developed a draft Registration standard: health checks for late career doctors that would support option three.***

   7.1. Is the content and structure of the draft Registration standard: health checks for late career doctors helpful, clear, relevant, and workable?
   The health checks suggested are neither helpful nor relevant. They are unnecessary and should be shelved permanently.

   7.2. Is there anything missing that needs to be added to the draft registration standard?
   No. There is inadequate evidence that this process should be adopted.

   7.3. Do you have any other comments on the draft registration standard?
   Proposed mandatory "health/fitness to practise" checks should be abandoned.

8. The Board has developed draft supporting documents and resources to support option three. The materials are:

[28] Ibid

C-1 Pre-consultation questionnaire that late career doctors would complete before their health check

C-2 Health check examination guide – to be used by the examining/assessing/treating doctors during the health check

C-3 Guidance for screening of cognitive function in late career doctors

C-4 Health check confirmation certificate

C-5 Flowchart identifying the stages of the health check.

8.1. Are the proposed supporting documents and resources (Appendix C-1 to C-5) clear and relevant?

They are not relevant as I do not believe this intervention is appropriate.

8.2. What changes would improve them?

They should be ignored unless a thorough Pilot Program demonstrates that "health/fitness to practise" checks make a significant difference to patient outcomes.

8.3. Is the information required in the medical history (C-1) appropriate?

No – it is excessive and irrelevant.

8.4. Are the proposed examinations and tools listed in the examination guide (C-2) appropriate?

No – they are excessive and irrelevant.

8.5. Are there other resources needed to support the health checks?

No.

In summary: I do NOT believe that the MBA has provided sufficient evidence to make the case for doctors over 69 years to have mandatory health checks in order to continue their medical registration. At the very least, the MBA should run a pilot program for 3 – 5 years across all age groups to assess whether health checks both: (1) prevent "notifications"; and (2) significantly improve patient outcomes. If not, this proposal should be abandoned permanently.