



ATB2011\MIPS\SUB TO AHPRA2010

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## **PUBLIC CONSULTATION PAPER ON THE DEFINITION OF PRACTICE**

The Medical Indemnity Protection Society Ltd. (MIPS) welcomes the opportunity to provide comment on the current definition of Practice used by the 10 health professions regulated under the Health Practitioner Regulation National Law Act.

MIPS believes that the current definition is too wide and has had unintended consequences, some of which have been outlined in the Consultation Paper.

**The Medical Indemnity Protection Society Ltd. (MIPS)** is a “not for profit” discretionary mutual and parent company of the MIPS Group that includes a wholly-owned subsidiary **MIPS Insurance Pty. Ltd.**, an APRA regulated general insurer providing medical indemnity insurance to MIPS members.

MIPS is a membership organisation with some 20,000 registered health professionals and over 10,000 health student members.

MIPS' Constitution requires it to promote honourable and discourage irregular practice and to consider, originate, promote and support, or oppose legislative or other measures affecting members.

MIPS' principal activity is to provide medical indemnity cover for its members who are mainly medical and dental practitioners. It is a MIPS requirement that members hold appropriate recognised qualification, training and experience for the health services they provide.

In addition to the issues alluded to in the AHPRA public consultation invitation there are other areas of significant concern that have not been touched on.

Some of those areas of concern relate to the uncertainty and illogicality arising from the current definition particularly in respect of its breadth. Some examples include:

- research and corporate work that is undertaken by qualified health care practitioners working either in multi-national organisations or as individuals collaborating across international boundaries;
- where those undertaking research, teaching, corporate or academic roles, etc. are not qualified health care practitioners and so are not regulated by AHPRA.

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It seems illogical and possibly counter productive for the community to accept a double standard being currently a much higher standard required of someone fulfilling a role if they also happen to hold the skills and knowledge of a health practitioner (and possibly may be better equipped to ensure a better health outcome for the community), compared with someone who is permitted to perform the same role but because they are not a health practitioner, are not regulated and are arguably less accountable.

MIPS believes that the current definition casts too wide a net and captures many individuals in corporate governance and management roles who may use their professional knowledge (that may include in part the knowledge that they gained in training as and/or where they provided services as a health care practitioner) in a direct non-clinical role with clients, or working in management, etc. The current definition, when interpreted at its broadest, would also seem to capture those in public service either as local council, State or Federal government office bearers or politicians or bureaucrats who may or may not be in health roles. That is because the area in which they work may impact on the *“safe, effective delivery of services in the profession”* through funding, planning and other activities. Examples might include departments of treasury, Australian Tax Office and other revenue offices, various licensing/planning authorities, town planning, building design, etc.

Similarly those with a health practitioner background involved in not-for-profits, school councils, school “P&C” groups and charities are all potentially captured. The enforcement of the current definition over time is likely to result in decreased involvement by health practitioners in such groups. Based on history to date we do not believe that the potential risks to the community of not capturing such individuals under a broad definition of practice outweighs the loss to the community of the participation of such individuals over time because of the current definition.

In summary, the all-encompassing nature of the current definition of practice captures very tenuous connections to the provision of health care.

MIPS is concerned to ensure that the resources of AHPRA and the National Boards can remain focussed to achieve their most efficient and effective operations in ensuring protection of the public. That is most likely to be achieved if there is reinforcement of the concept of proximity (to patient) of delivery of health care (health care being as defined in the Medical Indemnity (Prudential Supervision and Product Standard) Act 2003).

Ultimately, it is the point of delivery of health care that matters most and provides AHPRA with the greatest opportunity to protect the community through the National Boards. We therefore believe that the definition needs to change to reflect that and provide appropriate focus.

We therefore support adoption of Option 2 but with some further slight amendment so that the definition reads:

*“Practice means any role in which the individual uses their skill and knowledge as a health practitioner in any way that impacts on their delivery of health care to a person.”*

I am happy to discuss further any of the points raised in this correspondence.

Yours sincerely,



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**MIPS - Medical Indemnity Protection Society Limited**  
 is a Doctors for Doctors, “not for profit” organisation that provides membership benefits to over 30,000 members.