

Area of Need forum

Discussion paper

The distribution of medical practitioners in Victoria is a complex issue influenced by both national and state policy developments over the past decade.

Key industry stakeholders have reported a degree of confusion on how the policy applies to the recruitment of doctors in Victoria. The Department of Human Services (the department) has organised this forum to inform participants of the department's existing arrangements relating to the Area of Need policy and to seek opinions from the field as to its appropriateness.

This discussion paper outlines the development of the policy and its application in Victoria.

What is an Area of Need?

Area of Need is a generic term for a number of national and state policy directions which are interrelated and refer to the responsibility of the state, Commonwealth, Medical Practitioners Board of Victoria (the Board) and specialist colleges in determining the need for an additional medical practitioner and the suitability of the practitioner for a specific position.

The roles and responsibilities of each group are separate but interconnected. The Commonwealth and specialist medical colleges focus on a national process. The Board focuses on a state process. The department is required to participate in both processes for registration of medical practitioners.

In other jurisdictions the term Area of Need is enshrined in their respective legislation and allows for a medical practitioner without Australian qualifications to provide services in a specific geographic location.

The term Area of Need does not appear in the Victorian *Health Professions Registration Act 2005*. Rather, the Health Professions Registration Act 2005 s7 (1) (c) states:

The responsible board may grant specific registration as a health practitioner to an applicant who has completed a course of study and any supervised practice in the health profession regulated by that board that does not qualify that applicant for general registration –

*c) if the responsible board is satisfied that, in order to meet **an identified need** for a health practitioner, it is necessary for a person having qualifications and training in the nature of the applicant's to practise as a health practitioner in Victoria;*

The policy direction of the department has been based on the concept of 'identified need', which is not restricted to a geographic area or specific position. For the purposes of this discussion paper, the department will refer to 'identified need' as stipulated in the Victorian legislation as 'Area of Need'.

There are two types of Area of Need policies in which the department is involved. These are:

- endorsement of applications from the Board for specific registration under *Section 7(1) (c)* of the *Health Professions Registration Act 2005*; and
- endorsement of applications under the Assessment Process for Area of Need Specialists.

What is a District of Workforce Shortage?

A District of Workforce Shortage is a geographical location in Australia where the population's need for health care is not met. Approval of a District of Workforce Shortage is formally known as an 'exemption under Section 19AB of the Health Insurance Act'.

District of Workforce Shortages are the responsibility of the Commonwealth Government and determined by the Department of Health and Ageing using Australian Bureau of Statistics population data and Medicare Australia's billing data.

Area of Need for registration purposes – the role of the department

Background

In order to meet the shortage of medical practitioners in rural Victoria, *s 8 (1) e* of the then *Medical Practice Act 1994* (now the *Health Professions Registration Act 2005 – s 7(1) c*) (the Act) provided the Board with the legislative mechanism to grant or refuse specific registration in order to meet an identified need. However, the legislation does not specify which authority or individual is required to identify that need.

Until 1998, the Board granted Area of Need exemptions so applicants could fill vacancies with doctors whose qualifications were close, but not the same as Australian doctors, to meet an identified need. The Board sought advice from the department and the Australian Medical Association (AMA) as to whether there was a need for an additional medical practitioner. At the time, the Board's policy was to use this clause of legislation to register only GPs.

In 1998, the Board subsequently indicated that it believed that the determination of an Area of Need for registration purposes was a workforce issue and should be determined by the department in conjunction with the AMA.

Following agreement in 1998, the department commenced providing written advice to the Board, in support or not, of applications seeking registration under *s 8(1) (e)* of the then *Medical Practice Act 1994*. The department maintained policy consistency with the direction of the Commonwealth's policy regarding the allocation of Medicare provider numbers and that was to refuse all applications for Area of Need positions in metropolitan Melbourne.

This policy was less clear in rural areas where the department tended to endorse all applications. At the time all applications were required to have evidence of national labour market testing (advertising). Information received from health services, GPs, Divisions of General Practice and the Rural Workforce Agency of Victoria (RWAV), indicated that despite constant and expensive advertising the workforce shortages, particularly in rural areas, were so acute that the mandatory requirement for advertising became irrelevant. The department decided that given the cost of advertising with negligible result it was unreasonable to require health services and general practices to advertise.

The administrative arrangement between the department and Board continued until 2003 at which time the Commonwealth Government implemented the *Strengthening Medicare* initiative.

During the late 1990s there was increasing evidence of a shortage of rural GPs. State and territory governments worked with the Commonwealth to develop initiatives to address these shortages (for example, the national Five Year Scheme).

There has since been an increasing focus on medical workforce shortages not only in rural areas but also in outer metropolitan Melbourne and some lower socio-economic inner city locations. The Commonwealth's policy position was that the shortage of medical practitioners was not a supply issue; it was an issue of maldistribution, which could be addressed by state and territory jurisdictions restricting access to metropolitan locations through the Area of Need clause in the respective legislation. The Commonwealth encouraged states and territories to take on this role arguing that for an overseas trained doctor to practice in Australia they would be required to be registered by the Board prior to seeking a Medicare Provider number. The Commonwealth's position followed that as registration was a responsibility of the State, the determination of 'need' was a State responsibility.

Victoria initially complied with this arrangement and came under increasing pressure from rural GP lobby groups, outer metropolitan Divisions of General Practice and inner metropolitan general practices unable to recruit Australian trained doctors or who for cultural reasons preferred to employ a medical practitioner with language skills and cultural attitudes

that met the demands of the patient/client base. Victoria attempted to align its policy decision-making process relating to 'need' to the Commonwealth's allocation process for Medicare Provider numbers and sought Medicare Provider number data to be able to make evidence-based decisions consistent with the Commonwealth's process. However, privacy issues prevented the Commonwealth providing the data required.

In 2003 the Commonwealth announced the *Strengthening Medicare* initiative. One of the initiatives under this package was to streamline Commonwealth and state government processes for assessing areas of need in which overseas trained doctors can work. In this new process the Commonwealth recommended that the State would provide approval for an Area of Need for registration purposes first, and then the Commonwealth would determine District of Workforce Shortage. If the State approved an Area of Need for registration purposes and the Commonwealth disagreed and did not provide a District of Workforce Shortage, the applicant would be registered by the Board but would be unable to bill patients under Medicare.

Following national discussions between all state and territory jurisdictions and the Commonwealth, Victoria adopted a policy whereby the responsibility for determining the need for additional medical services in a given location rests with the Commonwealth.

The reasons for the Victorian policy position include that:

- the supply and distribution of GP health services is the responsibility of the Commonwealth
- the Commonwealth maintains Medicare data not provided to the State. Therefore the State is unable to make an evidence-based decision (doctor to population ratio)
- there is no benefit to the State in restricting the supply of GPs given the evidence of GP shortages.

The recommendation from the *Strengthening Medicare* initiative relating to the determination of Area of Need was referred to the Australian Health Workforce Officials Committee (AHWOC) and then to the Australian Health Ministers Advisory Committee (AHMAC) Chief Executive Officers with the latter agreeing that:

'There was not an agreed position on this matter and jurisdictions will therefore attend to the matter according to their own process.'

Current status

Victoria has since maintained a policy of endorsing all applications for Area of Need under 7(1) c of the *Health Professions Registration Act 2005* and has entered into an arrangement with the Board where written advice on Area of Need determinations is no longer required.

This policy has, to date, received widespread support from health services, GPs, the RWAV and recruitment agencies as it does not present an additional barrier to recruiting medical practitioners where the need is identified by the employer. The restriction of the supply of medical practitioners is managed through the Commonwealth Medicare Provider number legislation and the suitability to practice is determined through the process of the Board responsible under the legislation for their registration.

Area of Need for specialist assessment – the role of the department

Background

The Area of Need specialist assessment process was developed over several years by the Australian Medical Council (AMC) and finalised in 2002. It is a national initiative of the AMC, the Committee of Presidents of Medical Colleges, Commonwealth Department of Health and Ageing, state and territory medical boards and health departments and the health industry.

Under this process, the state is responsible for approving positions for the purpose of Area of Need designation. According to the AMC guidelines, an Area of Need for specialist assessment is determined by examining Medicare statistics, health workforce data and evidence of unsuccessful attempts to recruit an Australian doctor to a position.

The assessment process described in the guideline requires employers to provide evidence to health authorities of reasonable efforts undertaken to recruit locally. Examples for each state to use to assist in the determination include:

- copies of job advertisements and dates and publications in which they were placed
- the outcome of placing the advertisement
- an explanation as to why particular applicants (if any) were not suitable
- details of the impact (for example on service delivery and staff rostering arrangements) of leaving the position vacant – for example, additional rostering of existing staff, or high cost of locum services.

The process requires the department to make a judgement concerning whether service delivery will be affected to the extent that the position must be filled. This would be based on information such as epidemiological and workforce analysis and details provided by the employer.

At the time of the development of the national policy (November 2002) Victoria supported the implementation of the Area of Need assessment process. However, Victoria raised the key issue of access to Medicare for Area of Need specialists. Victoria requested improved arrangements regarding the basis and timing of the state's declaration of Area of Need and the Commonwealth's District of Workforce Shortage.

In June 2003, as part of its *Strengthening Medicare* initiative, the Commonwealth commenced negotiations with state and territory jurisdictions around achieving alignment between Area of Need and the Commonwealth declared District of Workforce Shortage. The approach focussed on who should be determining 'need'.

After significant discussion amongst jurisdictions and with the Commonwealth, two approaches were recommended for discussion at the AHMAC Chief Executive Officer's meeting in November 2004. These were:

- **General alignment** – For specialists, the Working Group established a pilot process for discussing all Rural Remote and Metropolitan Area (RRMA) classification 1 (metropolitan) applications from specialists for a Medicare Provider number exemption. The pilot allowed state and territory jurisdictions to provide input to the decision-making process of the Commonwealth delegate, noting that for areas outside RRMA 1, both District of Workforce Shortage and Area of Need are rarely refused for specialist vacancies. Victoria did not support the process as it relied on the state making a determination on the need for additional medical practitioners without access to Medicare data. The Commonwealth retained the authority to override any state-based decision.
- **Functional alignment** – This option allowed the Commonwealth delegate to make a District of Workforce Shortage determination that would then apply for Area of Need purposes in relation to doctors wishing to access Medicare rebates. In effect, the states and territories would be vesting their decision-making powers in the Commonwealth in relation to Medicare billing doctors, both GPs and specialists, but not in relation to hospital doctors. The Board has supported this approach and retains the authority to register a medical practitioner.

Victoria did not support the request by the Commonwealth to make a determination about need prior to the allocation of a District of Workforce Shortage. The AHMAC decision of November 2004 was to allow individual jurisdictions to determine which approach was the most suitable.

The AHMAC paper noted that the benefit of the functional alignment option is that only one decision would need to be made in relation to workforce distribution for the purposes of medical registration and the issue of a Medicare Provider number, and decisions would be made on a nationally consistent basis. Costs would be reduced, time saved and the whole process made more transparent.

Victoria opted for the functional alignment policy position. The reasons for the Victorian policy position include:

- The supply and distribution of medical practitioners is the responsibility of the Commonwealth and this is achieved through the allocation of Medicare Provider numbers.
- The Commonwealth has declared that Australia is in national medical workforce shortage. This is demonstrated by the inclusion of medical practitioners on the 'Migrants on Demand List'.
- There is a lack of clarity in the process as to whether the state is designating a position for registration purposes or for some other purpose. However, the board will not register an Area of Need specialist without the department's endorsement.
- There is no benefit to the state in restricting the supply of medical practitioners. The Commonwealth determines that the applicant is able to gain a Medicare Provider number, based on doctor to population ratios and Medicare billings data. It would be a duplication of process to require the applicant to go through a similar state-based Area of Need process with different criteria.
- Employers, both hospitals and Divisions of General Practice, and RWAV are better placed to determine the service needs of their local area.

The Commonwealth's response to the Victorian policy is to abide by the AHMAC agreement, requiring each individual jurisdiction to determine the most suitable approach.

In developing the Victorian policy, the department responded to health services' concerns that the cost of advertising for specialists was expensive, and in the majority of cases, particularly in rural areas, Australian trained applicants did not apply. In Victoria health services are responsible for determining their own health workforce based on individual circumstances and knowledge of the specific requirements of their environment. The department endorses this decision and accepts that health services are the most responsible authority to determine their workforce requirements.

Additionally the department felt that given that the Commonwealth Government declared in 2003 that the nation was in national medical workforce shortage and in recognition of this included medical practitioners in the Migrants On Demand List, it could see limited benefit in restricting health services from employing staff where they identified a need.

The department recognises that specialist colleges, the AMC and the medical boards are the appropriate authorities to ensure quality of overseas trained medical practitioners is maintained.

Current status

Based on the factors stated above the department continues to endorse all applications for Area of Need specialists.

The policy, whilst somewhat bureaucratic, has to date received widespread support from health services, GPs, the RWAV and recruitment agencies.

As already discussed, given the national shortage of medical practitioners and the numerous recruitment strategies implemented by the State Government it would appear to be counterproductive for the department to restrict the supply of a workforce that is in shortage.

The way forward

Some of the questions for discussion at this forum include:

- What is the intent of the Victorian legislation with regard to ‘identified need’?
- What should the department’s role be in determining Area of Need and why?
- Should other agencies be involved in determining an Area of Need?
- When a local doctor is not appointed to a position (For example, health services determine a local candidate is not suitable / what should the level of departmental involvement be?) Does this go against the spirit of the Area of Need policy?
- What are the options for a different process?

Area of Need and other state processes

New South Wales

The New South Wales Department of Health, Area of Need Program is a short-term strategy that enables the recruitment of suitably qualified overseas-trained doctors into declared Area of Need positions on a temporary basis, while efforts continue to attract medical practitioners with general registration on a permanent basis.

Queensland

An Area of Need may exist for a specific vacancy that is unable to be filled by an Australian trained doctor and this area of need must be certified by the Executive officer of the Office of the Health Practitioner’s Registration boards. The Medical Board of Queensland has categories of Special Purpose Registration for International Medical Graduates, including S.135 – Practice in an Area of Need. For a medical practitioner to be registered under this category the employer must provide the relevant documentation to the Medical Board of Queensland It is necessary to obtain an offer of employment prior to applying for Special Purpose Registration.

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