

08/48

26 May 2008

Ms Joanne Palisi
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Dear Ms Palisi

Application for authorisation A91088 lodged by the Australian Medical Association (NSW) Limited – interested party submission

Thank you for your letter of 29 April 2008 inviting a submission in relation to the application for authorisation lodged by the Australian Medical Association (NSW) Limited. The Australian Medical Association (AMA) supports the granting of the authorisation.

AMA (NSW) is the recognised representative for all Visiting Medical Officers (VMOs) in New South Wales (NSW) under the provisions of the NSW *Health Services Act 1997* (HSA). Under Chapter 8 of the HSA, AMA NSW has a legislative right to collectively negotiate VMO contract arrangements.

Over the last 30 years AMA NSW has ensured that the concerns of VMOs are effectively taken into account in the determination of remuneration and conditions for VMOs in NSW. The application by AMA NSW essentially seeks to preserve the status quo.

AMA (NSW) has developed a well-established working relationship with NSW Health. The collective negotiation of VMO contracts has led to sustainable VMO arrangements that support the high quality delivery of medical care in NSW hospitals. There is no evidence to suggest the collective negotiation of VMO contracts has led to adverse outcomes or rising costs in the NSW health care system.

The AMA submits that the arrangements in NSW have allowed the orderly negotiation of contracts, permitted specific workforce issues to be identified and tackled and have ensured that NSW Health has access to a highly skilled and flexible VMO medical workforce. The success of these arrangements is demonstrated by the fact that the proportion of VMOs operating in NSW as independent contractors is much higher than in other jurisdictions.

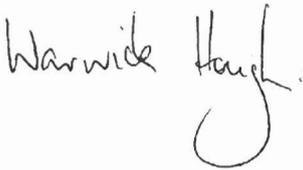
The Commonwealth's *Independent Contractors Act 2006* (ICA) overrides Chapter 8 of the HSA and, as a result, the collective negotiation of VMO arrangements is no longer permitted. Complex transitional arrangements under the ICA also mean that some VMOs are covered by the existing VMO agreement while others are not. This

will inevitably result in confusion, higher transaction costs and less than satisfactory VMO arrangements.

The application made by AMA NSW essentially goes some way towards restoring the successful pre ICA arrangements. AMA NSW has shown its commitment to ensuring the availability of public hospital services in NSW and the ACCC can be confident that the public benefit of approving this application will significantly outweigh any perceived costs.

Thank you for the opportunity to comment on this issue. We would be pleased if you could keep us informed of the progress of the application.

Yours sincerely

A handwritten signature in black ink that reads "Warwick Hough". The signature is written in a cursive style with a large, looping flourish at the end of the name.

Warwick Hough
Senior Manager
General Practice, Legal Services and Workplace Policy