

# Australian Diagnostic Imaging Association

## Dr Ron Shnier, President of ADIA, discusses Prohibited Practices



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Dr Ron Shnier - President - ADIA

The Australian Diagnostic Imaging Association (ADIA) is a not for profit organisation that represents the interests of diagnostic imaging practices and radiologists engaged in the private sector. Its membership comprises both practice groups and single independent practices that come together with a common interest in quality private practice and sustainable government funding.

The ADIA Executive Council comprises Fellows of the College as well as practice managers to ensure that all aspects of practice are represented. Many ADIA initiatives are coordinated with RANZCR and ADIA welcomes the opportunity to contribute articles of common interest to ADIA Members and RANZCR Fellows through Inside News.

In this second article I want to discuss ADIA's views about changes to the Health Insurance Act in relation to prohibited practice.

Both ADIA and the College support strong legislation to prevent Medicare abuse and in particular to prevent clinically unnecessary diagnostic imaging testing and over-servicing. Both organisations have however, for more than two years now, been making submissions on behalf of their respective members opposing changes to the prohibited practice provisions of the Health Insurance Act as they are being applied to diagnostic imaging. Our fundamental opposition to the changes, initially designed to address issues in pathology, was that:

- The Departmental review of pathology arrangements did not extend to diagnostic imaging and while there was demonstrated evidence of inducements and over-servicing in pathology, there was no evidence of this in diagnostic imaging.
- The new legislation does not reflect the nature of diagnostic imaging services or the risk to patients or Medicare of unnecessary diagnostic imaging testing or over-servicing in Australia.
- The legislation has anti competitive and prejudicial implications for independent diagnostic imaging practices. It discriminates against arms length referred private practice by ignoring the structure and nature of joint venture arrangements, the relationships between non-radiological specialists providing imaging and self referral by non-radiologist imagers.

Despite our strong objections, the changes were enacted in June 2006 and they will take effect from 1 March 2008. The

Act provides for a mechanism whereby the Minister may declare certain diagnostic imaging practices permitted under the Act.

ADIA submitted to the government that the following guiding principle should be applied to determine whether a benefit should be permitted under the Act:

- The benefit should be unlikely to encourage diagnostic imaging that is inappropriate in accordance with generally accepted medical practices;
- The benefit should not directly be related to the number of requests for diagnostic imaging services made by the requestor; and
- The benefit should not be likely to skew competition away from considerations based on quality of service, convenience or cost to patients and in favour of the provider who provides the benefit.

The College has endorsed the application of ADIA's proposed guiding principle.

Subject to the application of the guiding principle, ADIA identified and submitted a range of benefits that might be permitted by the Minister, eg education and education seminars, provision of hardware and software, small gifts, hospitality, etc. On 24 December, subsequent to this submission, the Department distributed a discussion paper outlining its approach to permitted benefits and sought further submissions. ADIA disagreed with most of the approach put forward by the Department in its discussion paper and is continuing to raise the concerns of its members that:

- The Act is not effective in respect of radiology as it is silent on self referral and other arrangements that referrers enter into (with and without radiologists) where there is a financial benefit derived by the referrer from the services;
- If the Act is to continue to apply to radiologists any regulation to create a permissible benefit should be founded upon the above guiding principle so that practitioners can use this principle as a clear guideline to ensure compliance; and
- The guiding principle will enable the Act in operation to satisfy the objectives of the legislation while also permitting flexibility to accommodate the needs of providers of diagnostic imaging services.

At the time of writing, we are still waiting for the final details of the benefits that will be permitted under the Act

