



Australian Divisions of **General Practice** Ltd

22 September 2003

Consultation on the Definition of a Charity
Board of Taxation
C/- The Treasury
Langton Crescent
PARKES ACT 2600

To Whom It May Concern:

Please find following a submission to the Board of Taxation, in relation to the draft *Charities Bill 2003*, from the Australian Divisions of General Practice Ltd (ADGP), ABN 95 082 812 146, 25 National Circuit, Forrest ACT 2603; telephone 02 6228 0800 and facsimile 02 6228 0899.

In preparing this submission, ADGP consulted Senior Executives of the Australian Council of Social Services (ACOSS), and discussed their submission on the draft *Charities Bill 2003*. ADGP strongly supports ACOSS's submission, particularly the recommendation relating to the need to re-draft *Clause 8*.

ADGP, on behalf of the Divisions Network, wishes to make comments on certain components of the draft legislation, which potentially has a direct impact on its membership.

Background to the Divisions Network

Established in 1998, ADGP is the peak national body representing 120 Divisions of General Practice (Divisions) across Australia. Through a formal Memorandum of Understanding (MoU), ADGP also advocates on behalf of the eight State Based Organisations across Australia in recognition of the vital role SBOs play as members of the Divisions Network (ie. Divisions, SBOs and ADGP).

Approximately 94 per cent of Australian general practitioners (GPs) are members of a local Division.

Divisions work at the local and regional level providing support for GPs and general practices. Over the past 10 years, since their inception, Divisions have been instrumental in reducing the isolation of general practice, supporting better linkages between GPs and the rest of the health system, developing new models of care in collaboration with GPs, hospitals, and other care providers, and delivering Commonwealth programs locally through engagement and education of GPs.

The role of the SBOs is to support, represent and advocate for Divisions at the State/Territory level by engagement with stakeholders, especially State/Territory Health Departments, building the capacity of Divisions and general practice, policy development and implementation, and planning and quality improvement activities.

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Over recent years the work of Divisions has begun to embrace more of a whole of practice approach – with support for practice staff, employment of allied health professionals and so on.

Essentially, Divisions are about building the capacity of general practice to improve the delivery of primary care in their communities, and they do this in numerous ways, through running educational activities for GPs, working with practices to implement more efficient systems, largely through IT and information management, that impacts on both the clinical and business aspects of practice, to coordinating local practice nurse networks, to contracting allied health professionals. The types of activity Divisions are involved in can vary from region to region, depending on their local population needs and circumstances, and funding available through the Commonwealth and State/Territory Departments of Health.

Divisions, SBOs and ADGP are incorporated autonomous bodies. The Divisions Network is owned and controlled by the GP members. Divisions are separate legally incorporated organisations whose members decide upon the make of their Board. The Commonwealth Minister for Health and Ageing has clearly stated that the organisations that form the Divisions Network are not “an arm of Government”.

Health Promotion Charity Status

Over the past twelve months, Divisions throughout Australia have successfully applied for endorsement as a Deductible Gift Recipient (DGR) under Item 1.1.6 of the table in Section 30-15 of the *Income Tax Assessment Act 1997*, which allows them to qualify as a Public Benevolent Institution (PBI) as a Health Promotion Charity.

Given they are predominately government funded, the funding bodies do not have a say in the constitution of the Board nor the staffing of the Division. The Division program funding is aimed at providing health services, which target disadvantaged members of the community throughout Australia.

Clause 4 – Core Definition

Paragraph 4(1)(f)

The definition of a government body requires further clarification in the light of the Central Bayside Division of General Practice Ltd vs Commissioner of State Revenue No. 8719 of 2002 (Victorian Supreme Court) decision, which took a different approach in suggesting any body established pursuant to a government funding program, which receives the majority of its funding from government, is in essence a “Government Body”.

As stated previously, Divisions are separate legally incorporated entities with independent Boards elected by their members. Government funding of their operations does not include control by government of these organisations, and it is not the intent of government for this to occur. The definition of a “Government Body” should be expanded to ensure any non-government organisation, which receives government funding, does not imply that it is a government body. We are certain the intent of the *Charities Bill 2003* is not to deny a large number of non-government organisations charitable status.

Clause 10 References to Charitable Purpose

Paragraph 10 (1) (e)

The Advancement of Health definition in the Exposure Draft Legislation appears to cover the activities undertaken by Divisions both from curative and preventative purposes, namely: the provision of public health services aimed at advancing the health of the general community or sections of the general community, including health promotion, nutrition services, immunisation and screening for diseases. It would be beneficial if this was expanded to include services that cover substance abuse and mental health matters, which are undertaken by our membership and staff directly with the general community. In addition, many Division programs both directly and indirectly benefit the general community; a reference to this direct and indirect link needs to be quantified, as both delivery mechanisms achieve the same result.

Should a narrow interpretation of *Clause 8* be applied to the charitable status of organisations under the Divisions Network then the ability of the Network to support GPs to provide comprehensive primary health care to the Australian community could be severely compromised.

The Divisions Network would also be less competitive in the market place in attracting highly trained, professional staff members, which has already been recognised as a difficulty for Divisions by Professor Gavin Mooney¹; and thus would adversely impact on the Divisions Network's ability to meet needs of community through service delivery.

In summary, the Divisions Network is of the strong view that the implementation of the draft *Charities Bill 2003* would event in a significant loss to the local communities in which Divisions serve. ADGP would encourage the Board of taxation to consider the views of the Divisions Network expressed in this correspondence, and in more detail in the submission and arguments presented by ACOSS.

Yours sincerely



Dr Steve Clark
Chief Executive Officer

¹ Mooney, G. *Debate: Do GP Divisions have a future? An Alternative Review*, SPHERE Debating Paper No 02/03, pg15