

13 July 2020

Hon Greg Hunt MP
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600

To the Honourable Mr Greg Hunt,

Alecto Australia and Wavelength are currently representing several General Practitioners who are attempting to become registered in Australia. These GPs all hold specialist qualifications in their field from the United Kingdom, a qualification that has always been recognised as substantially comparable to the Australia equivalent (FRACGP – Fellowship of the Royal Australia College of General Practitioners). They continue to be recognised as having equivalent qualifications, but there have been a number of new requirements in addition to long-standing restrictions under section 19AB of the Health Insurance Act.

Whilst we understand why these policies have been put in place, we would like to draw your attention to this cohort of female GPs who have been negatively impacted as an unintended consequence of a range of recent policy changes. We have detailed these cases further in this letter. The new processes do not allow for any appeal process which would allow female GPs to appeal due to familial and spousal circumstances. As there are no other means of appeal, we feel it is necessary to contact your office directly to seek assistance with this matter.

We recognise that our request impacts operationally on the RACGP and have discussed our concerns with them. They are aware that we are contacting your office regarding this matter and we understand they have commenced internal discussions.

Request for Consideration

We request that a means of appeal is made available to GPs on the PEP Specialist Stream so that they can make an application to be considered for common 19AB exemptions, such as the Spousal Exemption or the DWS Replacement Exemption. This may mean that such cases need to be referred to 19AA/19AB offices at the Department of Health rather than being processed through the RACGP.

The ability to have a right to appeal would assist these GPs who have to live in a MMM1 area for family reasons such as their spouse working in skilled shortage and specialist medical positions, to be allowed to apply for a 19AB exemption. At present, these highly qualified GP are finding rather than finding themselves in a situation where they can no longer practise in their profession.

Background

The PEP Specialist Stream opened on 1 September 2019 for General Practitioners wishing to work in Australia who hold a recognised GP specialist qualification. We herewith wish to address restrictions on work locations under the RACGP's Practice Experience Program (PEP) Specialist Stream as they apply to Substantially Comparable applicants.

As per the RACGP's website Substantially Comparable assessment, applicants may work in Monash Modified Model 1 – 7 locations, however Priority GP catchment areas are required if doctors wish to work in a MMM1 area. (if DPA requirements are met). In reality, many DPA locations are not MMM1 or MMM2, meaning that these GPs are required to work in locations at least MMM3 which are quite far from the metropolitan area. This creates a difficult situation for doctors with a spouse who needs to work in the MMM1 – particularly if they have small children as is the case with the examples outlined below.

OTDs and FGAMS are required under the Act to work in a DPA for up to 10 years from the date of their initial registration in Australia. However, a number of exemptions are provided under subsection 19AB(3) of the Act. The ss19AB(3) exemptions are contained in the Health Insurance (Section 19AB Exemptions) Guidelines 2015, and include but are not limited to: after-hours, locum, spousal, academic and class exemptions. The Guidelines also include a replacement provision (allowing a s19AB DPA exemption to be passed on where the departing practitioner has ceased working in the local area) and a provision for the service location's DWS/DPA status at the time of contract negotiations to be considered (where the practice has since lost their DSW/DPA status).

None of the provisions outlined above are currently being applied to the PEP Specialist Stream. In addition, Practice owners making enquiries around the locations where a substantially comparable GP can practise, are unable to find out information regarding specific locations.

The last advice received by the RACGP (dated 30/01/2020) was as follows: *“Under PEP we expect that doctors that still hold a 19AB requirement that they meet those requirements and work within DPA locations within MM 2 – 7.”* Therefore, other 19AB provisions such as spousal exemptions, locum exemptions, after hours exemptions and DPA replacement exemptions are not made available for GPs under the PEP Specialist Stream.

Specifically, in relation to this letter we wish for special attention be given to the following s19AB(3) exemption:

- **Spousal exemption:** the spousal provision allows a restricted medical practitioner whose spouse is either a medical practitioner holding a s19AB(3) exemption or a non-medically qualified skilled migrant, to obtain a section 19AB(3) exemption, so that they may access the Medicare benefits arrangement at a service location close to their spouse's place of work. This provision supports the general skilled migration scheme and precludes a highly qualified couple deciding against relocating to Australia because of the requirement for one of them to work in a DPA. It also allows families to remain together. Situations such as a spouse working in another shortage speciality or completing a fellowship at a hospital, prevent the GP from working in MMM2+ or DPA areas which may be 2 hours away from their spouse or children. Denying the spousal exemption not only excludes these doctors from accessing subsection 19AB(3) of the Act, but may deny Australia much needed skilled migrants in areas which they are needed by the communities.

Female GPs impacted by RACGP PEP Specialist Stream policies

Of note is that all the cases we have highlighted below are female GPs. We have outlined some of the details of their individual circumstances in the sections below. These situations include:

- GPs who have been disadvantaged due to having had maternity leave. A number of these doctors had applied to the RACGP under the previous guidelines which would have allowed them to work in a MMM1 area provided they had the relevant 19 AB exemptions. All the GPs who had had maternity leave in the past 36 months were

unable to be admitted to the program and had to transfer to the Specialist PEP program. Under this program they can no longer work in a MMM1.

- These GPs need to work and live in a metropolitan area because their spouses/partners (who are skilled migrants) cannot work in rural locations. Most of them have small children and the family cannot function with a parent working in a remote area. They have no option of moving to a rural area, and the new program does not currently allow for any spousal provisions. Their spouses would be unable to work in their skilled positions, some who are specialists, in rural locations.
- Those who had accepted a position prior to the program changes, and were delayed due to changed requirements, are not able to practise as GPs in Australia at all. Most of these doctors have been waiting in Australia for several months and risk losing their recency of practice if they cannot commence work soon.

We are aware that the RACGP is constrained by policies of the Australian Government and have no power to allow for any exemptions for these GPs. For this reason, we appeal to the Health Minister, the Hon Greg Hunt, to consider these circumstances and the way in which a right of appeal can be provided in the future.

Details of some specific case are outlined below. These doctors are at a complete loss as to how to commence working in Australia as their family circumstances make it impossible for them to work in Australia. These GPs are all highly qualified GPs with qualifications fully recognised by the RACGP. They also have complete and up to date CPD records and hold all requirements for GP practice in Australia. Specific names and details of these GPs and others who are similarly affected, can be made available on request by contacting the signatories to this letter.

- **Dr JH**

- Experienced GP who holds MRCGP and is eligible for Specialist Registration
- Dr JH signed a contract with a clinic in early 2019 prior to the RACGP program changes. The location she signed the contract with was eligible under the then Specialist Recognition Program and 19AB provisions.
- Due to her maternity leave she was unable to meet the recency of practice standards under the Specialist Recognition Program with the RACGP, therefore she reapplied after the PEP Specialist Stream was commenced. Dr JH had already arrived in Australia with her husband and two small children due to her husband's requirement to commence his skilled migrant role
- Dr JH was deemed substantially comparable under the PEP Specialist Stream however her position with the clinic is not approved. She is therefore unable to commence working unless she moves to a clinic in an area which would not be commutable. She would be forced away from her husband and children or must give up her work as a GP.

- **Dr YH**

- Experienced GP with MRCGP from the UK and is eligible for Specialist Registration
- Dr YH's husband is an Australian and she holds a partner visa (Permanent Residency (PR)). Their children all hold Australian passports.
- She has worked in Australia over ten years ago, and as she also holds PR, she is deemed to have completed her 10-year Moratorium and is thus no longer 19AB restricted.
- However, the RACGP will now require her to work in a pre-approved DPA location. The family is relocating to Sydney's eastern suburbs due to her husband having secured a position there.
- Making her work in a pre-approved DPA area will not be commutable and given she is actually unrestricted she should not be made to work in a DPA location, which would mean her having to live away from her family for the duration of the restriction.

- **Dr BB**
 - Experienced GP with MRCGP from the UK eligible for Specialist Registration
 - Dr BB signed a contract with a clinic during the time she came under the Specialist Recognition Program and was expected to obtain a spousal exemption to work due to her husband working in a skilled migrant position as an orthopaedic specialist within a hospital in the metropolitan area.
 - Dr BB had a period of maternity leave in the previous 3 years. She also worked at 2 different clinics whilst in the UK. However, as she worked at one of these clinics for less than 14 hours per week, she did not meet the recency of practice standard.
 - Dr BB arrived in Australia in late 2019 with her husband and children and has not commenced work. She had to reapply under the PEP Specialist stream and the position she had accepted will not be approved under this program. She is unable to take a position in a DPA area/MMM2 because she needs to care for her small children.
- **Dr AB**
 - Experienced GP with MRCGP from the UK
 - Her husband is Australian, and she holds a partner visa (PR) through her husband. Their children all hold Australian passports
 - Dr AB worked in Australia over ten years ago, as she also holds PR she is deemed to have completed her 10 year Moratorium and is thus no longer 19AB restricted.
 - However, the RACGP will now require her to work in a pre-approved DPA location. The family is relocating to Brisbane's inner northern suburbs due to her husband having secured a position there.
 - Making her work in a pre-approved DPA area will not be commutable for Dr AB and given she is actually unrestricted she should not be made to work in a DPA location, which would mean her having to live away from her family for the duration of the restriction
- **Dr ML**
 - Experienced GP with MRCGP from the UK
 - Her husband is Australian, and she has applied for a partner visa (PR) through her husband. Their five children all hold Australian passports
 - Dr ML has five children including two pre-school children, and failed the RACGP recency of practice standard due to taking maternity leave in the past 36 months.
 - She worked in Australia over ten years ago, as she also holds PR she is deemed to have completed her 10 year Moratorium and is thus no longer 19AB restricted as soon as her PR comes through (expected to come through before the end of this year, ahead of their move in early 2021).
 - However, the RACGP will now require her to work in a pre-approved DPA location. The family is relocating to Sydney's lower north shore due to her husband having secured a position there.
 - Making her work in a pre-approved DPA area will not be commutable for this doctor and given she will actually be unrestricted by the time she moves to Sydney, she should not be made to work in a DPA location, which would mean her having to live away from her family for the duration of the restriction.

Dr ML has delayed her arrival in Australia for a year in hope of resolving this situation but will be arriving in late 2020.
- **Dr LG**
 - Experienced GP with MRCGP from the UK holding General Registration in Australia. She is eligible for Specialist Registration
 - She is a PR visa and her husband and baby are Australian citizens.
 - Her husband is completing his Specialist training in a teaching hospital in Sydney and cannot relocate to a rural location.
 - Dr LG cannot work in a DPA area as she also has a small child and shares the care of that child with her husband.

- **Dr JP**
 - Experienced GP with MRCGP from the UK
 - Husband secured a position in inner metro Sydney so the couple moved last year, she was included on his visa and should have been able to apply for a DPA spousal exemption
 - The RACGP found Dr J not comparable due to her not meeting the recency of experience requirement. It is unclear whether this decision was based on her having taken maternity leave in the years that were being assessed or whether it is due to her having worked for BUPA doing insurance medicals.
 - An absolute disaster for the doctor, she is in Sydney now but unable to work due to the RACGP's decision, which makes her ever less eligible to return to work as a GP as time goes on with her being out of work and de-skilling.
- **Dr SK**
 - Newly qualified GP, expecting MRCGP in July, from the UK
 - Husband secured a GP role in Cannington WA 2 years ago, obtained visa and DR SK and their children were included in the visa
 - The family have been waiting for her to complete her GP training in the UK before making the move, of course now the RACGP have changed their rules.
 - Dr SK would be eligible for a DPA spousal exemption, which the RACGP will not accept. The couple of DPA regions in South Perth are oversubscribed and there is no patient base there, however as the college won't accept DPA spousal exemptions, Dr SK would not be able to work in a location that is close to her husband that is actually busy and needs a GP, the college would either make her work in an area that is overprescribed and where she won't be able to build up a patient base quickly and thus have low earnings, or as she'll have to work far away from her husband and children.
- **Dr MF**
 - Experienced GP with MRCGP from the UK
 - Dr MF came to Australia 12 months ago with her husband under his 482 visa.
 - She signed a contract with a clinic on the understanding that she would be working under a 19AB spousal exemption or the DWS replacement held by the clinic.
 - She was deemed substantially comparable by the RACGP prior to the changes to the program however due to the delay in her finding a position when she submitted the job offer she was advised she was accepted under the PEP Specialist Stream and she would need to work in a DPA area and provide evidence of a Health Workforce Certificate (Even though she did not require a Health Workforce Certificate)
 - She has 3 young children who need her care and cannot move to a rural location due to her husband's work.

In addition, we wish to point out that we have many clinics in non-DPA areas such as the western suburbs of Melbourne and Sydney or more rural towns such as Garfield (Vic) or Chidlow (WA) that are struggling to meet their community's demands as Australian Trained GPs will not take up positions in those areas.

Whilst we understand the need for OTDs to assist in rural locations and the reason for the DPA mechanism, there is a long-established rationale for the spousal exemption under 19AB provisions. We would like to request special consideration for GPs in situations such as those described above, to allow them to work in their profession in Australia. We therefore seek permission to have such cases considered under all of the provisions for 19AB/AA exemptions and to make application directly to the Department of Health. This would allow GP families to remain together and serve the community through the contribution of skilled professional.

Please feel free to contact Martina Stanley on 0403 444 764 or Chris Riley on 0439 039 603

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