

21 December 2021

Merrin Thompson
Director of Portfolio Committee 1
Parliament House
Macquarie Street
Sydney NSW 2000

By email only: PortfolioCommittee1@parliament.nsw.gov.au

Dear Ms Thompson,

Re: AMA NSW Submission for the Inquiry into the Workers Compensation Amendment Bill 2021

Thank you for the opportunity to make a submission to the inquiry into the *Workers Compensation Amendment Bill 2021 (NSW) (the Bill)*. The Australian Medical Association (NSW) (**AMA (NSW)**) acknowledges that the purpose of this inquiry is to amend the *Workers Compensation Act 1987 (NSW)* to abolish presumptive rights to workers compensation for workers who contract COVID-19. The Bill also makes a consequential amendment to the *Workers Compensation Regulation 2016 (NSW)*.

AMA (NSW) is a medico-political organisation that represents over 9,000 doctors in New South Wales, including doctors-in-training, career medical officers, staff specialists, visiting medical officers and specialists and general practitioners in private practice. Our members perform an important role in the workers compensation system by facilitating the treatment and recovery of those injured following workplace accidents.

As the peak representative body for medical practitioners in New South Wales, our submission focuses on the likely impact on medical practitioners of Clause 3 of the Bill. Clause 3 repeals section 19B of the *Workers Compensation Act* which was introduced in 2021 to create presumptive rights to workers compensation for certain workers (including employed medical practitioners) who contract COVID-19.

AMA (NSW) understands that if the Bill is passed, medical practitioners who contract COVID-19 at work will be able to make a claim for compensation. Those medical practitioners will need to demonstrate that they contracted COVID-19 in the workplace and that COVID-19 is the “main or substantial” contributing factor to their injury.

The AMA (NSW) recognises the importance of an efficient, effective, and sustainable workers compensation scheme. It is vital that the scheme provides workers with access to the best care, and that the best care can be delivered within recommended clinical timeframes to ensure patients have the best possible chance of returning to work. While AMA (NSW) acknowledges the concern that the current workers compensation scheme may be overwhelmed by the significant increase in COVID-19 related claims which in turn

impacts the future viability of the scheme for workers and employers in NSW, this needs to be balanced against protections for frontline workers during a pandemic.

For medical practitioners and other frontline workers in the health system, there remain high risks of exposure every day. Protections for frontline workers who contract COVID-19 at their workplace is essential. These workers are, subject to very limited exceptions, vaccinated and take all necessary precautions including the use of personal protective equipment, to minimise the risk of contracting or transmitting the virus. That being so, transmission can still occur.

AMA (NSW) is concerned that under the Bill, a worker being tasked with proving that the virus has been contracted at their place of work may find this to be onerous, stressful, and difficult.

AMA (NSW) understands that data regarding the impact of claims under section 19B of the Act is only now becoming available for consideration.

On that basis, AMA (NSW) submits that the presumption should remain for medical practitioners and other healthcare workers for a further period of 12 months, at which time the evidence should be reviewed to determine the impact of claims made by medical practitioners and healthcare workers on the workers compensation system.

AMA (NSW) also submits that the NSW Government should consider extending compensation to those healthcare workers who are not employees and therefore ineligible to access the workers compensation scheme. Many medical practitioners in the public hospital system are contractors, and the majority in the private hospital system are self-employed. These practitioners are often ineligible to make a claim under privately held insurance policies when contract COVID-19, as most are subject to an exclusion period.

Thank you for the opportunity to provide this submission.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Danielle McMullen'. The signature is stylized and enclosed within a large, hand-drawn oval shape.

Dr Danielle McMullen
President, AMA (NSW)