

## Consultant 94

6 February 2014

Dear Mr Witcomb and other PMI CC Panel Members

### Re: Private Healthcare Market Investigation

I was extremely disheartened to read your report on the current investigation into the PMI market and the lack of recommendations regarding the manner in which these big businesses conduct themselves with the individual medical practitioner.

I am in an increasingly growing body of professionals who have been forced to sign up to a contract by BUPA and Axa/PPP to abide by their fee schedule for procedures I perform on their patients in the private sector. As they are the two largest providers of PMI, I feel this tactic is tantamount to an abuse of their monopoly.

There are many things which I believe the current inquiry has overlooked and while your efforts to reduce the multi-million pound levels of price fixing between the large hospital conglomerates and the PMIs are laudable, you are doing this at the expense of ignoring us professionals who have our hands tied behind our back - our professional service fees are set by a company who knows nothing of our individual areas of expertise and the quality of care we provide. I would also like to make it clear that in the course of this letter I am not referring to the practises of those doctors conducting their business in groups or chambers but to the many thousands more of us who practise as sole traders.

It would be risible in any other area of life/business for the middleman to dictate the fee for a service, irrespective of the individual performing it! If I wish to have my car serviced, roof fixed or house redecorated, I go to the market and get some quotes. It is my responsibility as the customer to ensure that I am happy with the fees being requested and if I have an insurer who will only pay for the most basic level of service then I have to be happy that the extra money I owe is getting me a higher quality service.

I have been through many years of medical training and have developed my craft over this time. I have also gone through a fiercely competitive process to work as a Consultant Anaesthetist in a highly prestigious NHS London hospital. To say that the care I provide is akin to any other less motivated / trained individual is frankly insulting and degrading.

There are already regulations in place by all of our respective professional colleges regarding the doctor-patient relationship and billing for medical services and to quote the AAGBI, "You should request a quotation for anaesthetic services before surgery and check with your insurer if these fees will be covered by them. Your anaesthetist has no obligation to charge within the insurer's reimbursement maxima, although many choose to do so."<sup>1</sup>

BUPA and Axa/PPP have used their market position to enforce me to sign up to their restrictive contract as they know that if I don't, I will be 'forbidden' by the PMI to submit an invoice for treatments to approximately 80% of my patients (according to a review of my invoices for 2012-13). How has a situation arisen where the care provided to a patient is predetermined using a 'one size fits all' approach by an uninvolved third party? Modern surgery and anaesthesia is remarkably safe but this is only thanks to the ongoing research into the science regarding the perioperative period. In an institution like my own, we get referrals from not only other 'specialist' centres in the UK but from further afield internationally because we are deemed to have the experience and expertise to care for

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<sup>1</sup> [http://www.aagbi.org/sites/default/files/code\\_of\\_practice\\_08.pdf](http://www.aagbi.org/sites/default/files/code_of_practice_08.pdf)

these complex patients. Yet the PMIs in question take none of this into account and often only allow the most basic level of care (if that) to be remunerated. On the subject of remuneration, the previously referred to PMIs have continued to reduce their levels of reimbursement despite increasing costs of running our medical practises – in particular, medical defence costs, secretarial fees, consulting room rentals, fuel and utility expenses. Surely, this goes against common sense?

There are a huge majority of consultants (those who have been registered prior to 2010) who are indeed allowed to be reimbursed by the PMI up to the PMI's Benefit Maxima but are then permitted to collect any outstanding fee from the patient – the shortfall. This is accepted practice, providing that the patient has had ample opportunity to review the fees for service from the medical provider and received a quote in writing. Both the General Medical Council and our respective Royal Colleges have clear guidance on probity and good medical practice which should underpin these interactions<sup>1</sup>.

However, those consultants registered after 2010 have been forced to sign up to BUPA and Axa/PPP's restrictive contracts and are not allowed to set fees with the patient for our levels of service nor request a shortfall should one arise. This is a wholly unequal and two-tier system and why does it exist? If BUPA and Axa/PPP have good legal standing to dictate my fees and stop me quoting patients my fees for service which are freely published for them to peruse, why haven't they imposed the same sanctions on all those consultants who were registered with them before 2010 or forced them to sign the new contracts in order to continue treating patients insured by them? I personally believe it is because their legal foundations are wholly unsound and should they impose those sanctions on the rest of the more established medical community, there would be a legal challenge and the immediate abolition of these PMIs' contracts. This recent tactic of theirs seems to be somewhat insidious and furtive in nature.

The work being done by the CC has also been poorly publicised amongst the medical profession, having only received this invitation to comment today through a fourth-hand connection, and as such am sending my response via email before the deadline expires.

The situation which medical doctors have been suffering at the hands of BUPA and Axa/PPP for a few years now is showing signs of extending further afield now that these PMIs feel that we have no other option but to accept their restrictive contracts. In the past week I have seen letters to physiotherapists and dieticians threatening them with the same restrictive practises and derecognition if they don't sign up to them. Understandably, I feel much sympathy towards them as many of these senior Allied Health Professionals provide many highly specialised services compared to others in their own field and feel their fees are extremely fair and justified.

The overall sentiment within the healthcare profession is that the practises of BUPA and Axa/PPP are inherently wrong, anti-competitive, constitute price fixing, stifling the free market and a reflection of their grandiose market capitalisation. I always believed that the curbing of this behaviour was a central tenet of the Competition Commission.

I hope this message is helpful and highlights practises which may have been initially overlooked in your earlier investigations.