

**MTAA submission**

**Medicines Australia Code of Conduct Review -  
Transparency Model Consultation and Discussion Paper**

**September 2013**





## 1. Executive Summary

The Medical Technology Association of Australia (MTAA) welcomes the opportunity to make a submission to the Medicines Australia Code of Conduct review.

MTAA understands that the current Code review will primarily consider the Transparency Model Consultation and Discussion Paper which was developed by the Transparency Working Group (TWG).

MTAA is a member of the TWG and considers that it provides a detailed model for discussing the implementation of transparency of payments from the pharmaceutical industry to individual healthcare professionals.

MTAA notes that the TWG did not reach a consensus on every aspect of the model, nor did any of the TWG members' organisations endorse the model. However, as a participant in the TWG, MTAA considers that the transparency principles and model provide a good starting point for any discussion which may arise in future about whether the medical technology industry should implement any form of transparency. MTAA also notes that the medical technology industry differs in a number of respects from the pharmaceutical industry and these differences would need to be considered as part of any discussion about transparency in the medical technology sector.

## 2. About MTAA

MTAA is the national association representing companies in the medical technology industry. MTAA represents manufacturers and suppliers of medical technology used in the diagnosis, prevention, treatment and management of disease and disability. MTAA members distribute the majority of the non-pharmaceutical products used in the diagnosis and treatment of disease and disability in Australia. Our members also play a vital role in providing healthcare professionals with essential education and training to ensure safe and effective use of medical technology.

## 3. The Transparency Model and the Medicines Australia Code of Conduct Review

MTAA does not have comments on all aspects of the model. It considers that some issues, such as the reporting threshold, are best addressed by those who will be directly affected by the implementation of the model.

### General requirements and limitations: Scope of the transparency model p 3

The transparency model consultation paper notes that the model is limited to payments or other transfers of value related to prescription medicines. The consultation paper also noted that some options (such as who receives reports) could facilitate the expansion of the scheme beyond members of Medicines Australia.

MTAA's response to the issue of possible expansion of the scheme is discussed in detail at Section 4 of this submission.

#### Payments for expert witnesses in legal or administrative proceedings p 12

MTAA submits that it is appropriate to exclude expert witness fees from the transparency model. Healthcare professionals acting as expert witnesses are a witness for the court. There are separate ethical guidelines which apply to this interaction, such as the Australian Medical Association's *Ethical Guidelines for Doctors Acting as Medical Witnesses* (2011).

#### **4. Transparency and the Medical Technology Industry Code of Practice**

The Medical Technology Industry Code of Practice is a voluntary industry code for members of the medical technology industry. The Code is administered by the MTAA. Currently, member companies do not publicly report on payments to healthcare professionals, although companies do report on an annual basis to a Code Monitoring Committee.

The Medical Technology Industry Code of Practice is required to be externally reviewed every three years. The next external review of the Code of Practice is scheduled to commence in 2014. MTAA is of the view that the Transparency Principles and Model will provide a useful starting point for discussion if the issue of transparency is raised by stakeholders during the consultation process for the review. MTAA also notes that the medical technology industry differs in a number of respects from the pharmaceutical industry and that these differences would need to be taken into account in any discussion about transparency.

Firstly, there is currently an uneven playing field between medical technology companies that abide by the Code of Practice and those that do not. Compliance with the Code is mandatory for MTAA members. Non-member companies are encouraged, but not compelled, to comply with the Code.

MTAA has previously supported the unanimous recommendations of the Working Group on Promotion of Therapeutic Products (working group), which reported to the Australian Government in March 2011. Specifically, MTAA proposes that a requirement be introduced whereby a company which registers a product on the ARTG be required to nominate an industry code that it agrees to adhere to, as a condition of registration. This recommendation was not agreed to by Government. However, the Government later established a Codes of Conduct Advisory Group to oversee and guide implementation of a number of tasks. The tasks include mechanisms to improve the coverage of strong, consistent and enforceable codes of conduct.<sup>1</sup> MTAA is a member of the Codes of Conduct Advisory Group.

MTAA supports the work of the Advisory Group but notes that implementing transparency in an industry code that does not yet have universal code coverage could provide a further competitive advantage to non-members. This would only exacerbate the uneven playing field.

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<sup>1</sup> Department of Health and Ageing website, *Therapeutic Goods (Code of Conduct) Implementation Advisory Group*, <http://www.health.gov.au/internet/main/publishing.nsf/Content/RPGD-Promotion-of-Therapeutic-Goods-Codes-of-Conduct-ToR>, last accessed 11 September 2013

Secondly, the medical technology industry is characterised by a high level of innovation. Many medical technology products undergo frequent development based on healthcare professional feedback and scientific advances. In the medical technology context, it is critical that any transparency process does not discourage beneficial interactions between industry and healthcare professionals, which are often critical to the development and safe and effective use of medical technologies.

Finally, the medical technology industry is comprised of companies of markedly different sizes. In 2012, 41% of MTAA member companies had less than 20 staff and 38% had 20-100 staff. Due to this, The MTAA is mindful that any proposed transparency process must be realistic for companies with different levels of resources.

In conclusion, MTAA commends the TWG on its development of a proposed model for the pharmaceutical industry to disclose individual payments to healthcare professionals. The transparency principles and model provide a good starting point for any discussion which may arise in future about transparency in the context of the medical technology industry.