

## ***Item 319 – Ethical and Privacy Considerations***

It is without precedence within Medicare that there are limitations based on categorisation of patients on the basis of diagnosis and level of disability. This legislation violates the RANZCP Code of Ethics and traditional medical ethical principles such as confidentiality, the commitment to serve the best interests of the patient and professional independence of physicians.

### Confidentiality

RANZCP Code of Ethics, Principle 3:

*"Psychiatrists shall hold information about a patient in confidence".*

By virtue of receiving a particular type of treatment patients are on a database as "seriously psychiatrically ill". In addition, Item 319 is defined by specifics of diagnosis (sexual abuse, personality disorder, anorexia etc), personal information in the public domain.

- Patients have told psychiatrists that clerks at Medicare offices have made comments about their being a "319", instantly identified as being "seriously psychiatrically ill".
- Private health funds have access to a doctor's billing practices, and access to HIC data on item numbers and what they mean.
- Those in the field of assessing risk can abuse "319" which is a stigmatising label. This is more than a theoretical concern. Psychiatric patients are currently refused disability insurance once they have been treated for depression, despite the fact of their having overcome their problems with intensive psychiatric treatment and being in full time employment for many years.
- Patients' privacy is by no means guaranteed as electronic databases and Electronic Health Records (EHR) are being developed at a national level. Current legislation does not protect privacy, nor does the proposed legislation under the new Privacy Amendment (Private Sector) Bill. There is also the potential for errors of coding in computer databases and EHR which could prejudice the patient in the future.
- While the restrictions on children were eased when the legislation which cut funding for psychiatric services were reviewed, to access Medicare funding for intensive treatment the child is still a "319". This raises concern about the privacy issues of labeling children with psychiatric disorders, as children cannot give informed consent and this data will be their record for years to come, with unknown consequences for them in the future.
- There is a breach of professional confidentiality unless patients give informed consent that important diagnostic information is to be disclosed and the risk that such information may be misused. Diagnostic information has major implications for employment, insurance, superannuation prospects and socially.

Item 319 vastly complicates the doctor – patient relationship. Many clinicians have found it clinically unworkable to inform patients of these risks. To give the patient the choice places an undue burden on them – to refuse treatment because of the risks, and the shame,

or to accept the necessary treatment with the risks involved. Many patients have refused treatment. Many patients have not been informed. This contravenes RANZCP Code of Ethics, Principle 4:

*"Psychiatrists shall obtain consent from the patient before undertaking any procedure or treatment".*

- Does Item 319 put psychiatrists at risk for negligence or malpractice issues?  
Could a patient sue a psychiatrist for the negative connotations and alleged suffering with the label "Item 319"?

## **The best interests of the patient**

RANZCP Code of Ethics, Principle 2:

*"Psychiatrists shall provide the best possible care for their patients";*

RANZCP Code of Ethics, Annotation 1 to Principle 2:

*"Psychiatrists shall serve the best interests of their patients by engendering mutual trust, avoiding intentional or foreseeable harm and treating them under the best possible conditions".*

Psychiatrists are placed in an untenable ethical situation of having to refuse appropriate treatment, where no other treatment would be efficacious, because most patients do not fulfill the criteria of Item 319, and because they cannot afford to treat more than one or two, or no patients at half the MBS fee. Most patients cannot afford to pay half of the MBS fee if they receive intensive treatment because many psychiatric patients are vocationally, and thereby financially, disadvantaged. Item 319 contravenes the mandate of Medicare of equity of access.

Psychiatric patients are doubly disadvantaged, both by their having a psychiatric illness and by being unable to access appropriate treatment without stigmatisation and loss of privacy when they can access treatment under Item 319, or by being unable to access appropriate treatment if they don't qualify.

## **Professional independence**

Since these restrictions were introduced, appropriate clinical decisions in psychiatry cannot be made by the doctor committed to acting in the patient's best interest when he or she becomes ill, because decision making is constrained by arbitrary and clinically inappropriate criteria.

Item 319 is a challenge to the obligation to give not only the best possible care, but sometimes the only appropriate care or treatment cannot be offered to patients.

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Telephone: 02 9556 2534 Fax: 02 9567 4681  
Address: PO Box 12 Arncliffe NSW 2205  
Internet: <http://www.napp.org.au>