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Medical fraud and inappropriate practice in Medibank and Medicare, Australia 1975-1995

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**MEDICAL FRAUD AND INAPPROPRIATE PRACTICE
IN MEDIBANK AND MEDICARE,
AUSTRALIA 1975-1995**

A thesis submitted in fulfilment of the
requirements for the award of the degree

DOCTOR OF PHILOSOPHY

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by

Kathryn Flynn

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Glossary

Abbreviations

AAPP	Australian Association of Pathology Practitioners
ABC	Australian Broadcasting Corporation
ACOA	Australian Clerical Officers' Association
the Act	<i>Health Insurance Act 1973</i>
AFP	Australian Federal Police
AFR	<i>Australian Financial Review</i>
ALP	Australian Labor Party
AMA	Australian Medical Association

ANAO	Australian National Audit Office
ATO	Australian Taxation Office
APA	Approved Pathology Authority
APL	Approved Pathology Laboratory
APP	Approved Pathology Practitioner
CPD HR	Commonwealth Parliamentary Papers, House of Representatives
CT	<i>The Canberra Times</i>
the Department	Commonwealth Department of Health and Ageing
DPP	Commonwealth Director of Public Prosecutions
DRS	Doctors' Reform Society
FODS	Fraud and Overservicing Detection System
FOI	<i>Freedom of Information Act</i>
HIC	Health Insurance Commission
JCPA	Joint Committee of Public Accounts
MBR	Medibank Review Committee
MBS	Medical Benefits Schedule
MJA	<i>Medical Journal of Australia</i>
MPRC	Medicare Participation Review Committee
MSCI	Medical Services Committee of Inquiry
NATA	National Association of Testing Authorities
OECD	Organisation for Economic Co-operation and Development
OP	other pathologist (Medicare benefit rate)
PM&C	Department of Prime Minister and Cabinet
PSR	Professional Services Review
PSWP	Report of the Pathology Services Working Party
RCPA	Royal College of Pathologists of Australasia
SH	<i>The Sun Herald</i>
SMH	<i>The Sydney Morning Herald</i>
SP	Specialist Pathologist (Medicare benefit rate)

Definitions

allocative efficiency The extent to which resources are allocated to best effect among competing programs. Allocative efficiency is concerned with choosing to allocate resources to those programs that yield the highest benefits.

bulkbilling Where doctors accept 85 per cent of the scheduled fee as full payment for a medical service.

coning The reduction of fees and benefits for identical services which are either performed together or sequentially, rather than as individual items.

co-payment A payment made by a consumer at the point of service which is a contribution to the cost of providing that service.

corruption Usually defined as the exploitation of public office for personal gain or the abuse of power for institutional ends, where there is no explicit personal gain for the offender. In this thesis the definition is broadened to include laws and administrative systems that foster illicit behaviour.

efficiency The production of health services at a minimum cost and in a way that improves health outcomes.

entrepreneurial medicine A group medical practice involving vertical integration, where both general practitioners and other referral services are linked in some form of financial interrelationship, either individual or corporate, often with the involvement of commercial risk capital.

economics The art of choice in the use of scarce resources.

fee-for-service The doctor charges the patient for the cost of the medical service provided. Medicare reimburses this cost, either in part or full, to the patient.

fraud (against medical benefits) This occurs when a doctor makes claim is made for a service not rendered to a patient, or where the service is incorrectly described when billing the patient. Patients and other members of the community can also defraud the system in a variety of ways including lodging false claims and computer crime.

groupthink A deterioration of mental efficiency, reality testing, and moral judgement that results from in-group pressures.

health care inflation The extent to which medical price inflation exceeds general inflation.

health economics A specialized study into the allocation of health resources and how valued goals are achieved.

Health Maintenance Organisations An insurance system prevalent in the United States providing managed care. Many believe that managed care eliminates the problem of fraud. This is not the case.

managed care The arrangement whereby an organisation assumes responsibility for all necessary health care for an individual in exchange for fixed payment.

medicaid (United States) State funded health insurance for the poor.

medicare (United States) Federally funded health insurance for the elderly.

medicare (Australia) A system of universal health insurance providing free access to public hospitals and access to the services of general practitioners and specialists. Specialist services are available on referral from a general practitioner. It includes services by pathologists and radiologists.

moral hazard A term used in the insurance industry that refers to the recklessness induced by the security induced by insurance cover. Fraud is also part of moral hazard but poses different problems, in being a deliberate exploitation of the insurance contract. Moral hazard has been more broadly defined as the ways in which an insurance relationship fosters behaviour by *any* party in the relationship that immorally increases risk to others.

opportunity cost Every time resources are used in one way in health care, opportunities are forgone to use these resources in some other way.

overservicing Medical services that were not reasonably necessary for the adequate medical care of the patient concerned.

qui tam suits (Latin for “who as well”; that is, who sues for the state as well as for him or herself). It is a civil and not a criminal statute. The statute authorises private citizens to sue on behalf of the government, and to share in any recovery of defrauded funds eventually recovered by the government. In the United States more than half the settlements awarded the Department of Justice in health care fraud cases arise from *qui tam* suits.

resource allocation The extent to which resources are allocated to best effect among competing programs.

symbolic power Activities and resources gain in symbolic power, or legitimacy, to the extent that they become separated from underlying material interests, and hence go misrecognised as representing disinterested forms of activities and resources.

symbolic capital Symbolic capital is a reformulation of Weber’s idea of charismatic authority that legitimates power relations by accentuating selected personal qualities of elites as supposedly superior and natural.

universal public health insurance Health insurance which provides coverage to the entire population.

white-collar crime This term excludes conventional street crimes. An early definition of white-collar crime was deviance committed by people of high status or repute in the course of their occupation. The definition has been broadened to cover illegal acts committed by non-physical means and by

concealment or guile to obtain money or property or to obtain business or personal advantage. The term includes deviant behaviour by corporations or officers of corporations in the service of the organisation.

Abstract

The Australian system of universal health insurance has enjoyed great electoral popularity but the system has been open to abuse and has been beset by administrative inertia, a reluctance by governments to establish reliable estimates of the extent of fraud and overservicing, lack of adequate legislative policy and a very low rate of prosecutions.

The aim of this research is to provide an historical and sociological account of institutional responses to medical fraud and overservicing and the media's engagement with this issue over twenty years from 1975 to 1995.

Archival sources and interviews with key politicians, public servants and whistleblowers are used to tell the story of how universal health insurance was accepted as a necessary part of the social fabric from the introduction of the Pensioners Medical Scheme in 1951, Medibank in 1975 and Medicare in 1984 but measures to deal with the financial abuse of these systems did not have the same priority. The pathology industry provided the greatest scope for illicit profits through offers of kickbacks and inducements from pathology companies to referring general practitioners and this practice fuelled the growth of entrepreneurial medicine. Whistleblowers in the late 1970s and early 1980s campaigned for legislative and administrative change, but the reform agenda was more successful when it was led by a managing director of the Health Insurance Commission committed to change. These events are contextualised by several theoretical perspectives, including Foucault's theory of governmentality, the sociology of insurance and of whistleblowing.

The challenges for the 21st century are to maintain the level of resources needed to provide the intensive policing required for the regulation of the financial abuse of medical benefits particularly in the area of electronic fraud and sophisticated criminal fraud.

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