Changes to the eligibility to bill on Medicare in Australia: a threat to New Zealand’s medical workforce?

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Abstract
Previously, New Zealand citizens and those who studied medicine in New Zealand were subject to restrictions in terms of their eligibility to bill on Medicare in Australia. As of April 2010, those restrictions have been removed, making Australia an even more attractive destination for New Zealand doctors, particularly those who have completed their specialist training. At a time when the New Zealand health system can ill afford to lose more doctors overseas, this situation is of significant concern.

For the most part, New Zealanders and Australians have an unfettered ability to live and work in each other’s country. Since 1994, this arrangement has been facilitated by the automatic granting of a Special Category Visa (SCV) to New Zealanders upon arrival in Australia.\(^1\)\(^2\)

While New Zealanders must still apply for (and be granted) permanent residence in Australia to enable them to access some social security benefits, apply for Australian citizenship, or sponsor others to migrate to Australia,\(^2\) for many New Zealanders residing across the Tasman, such action never becomes necessary. However, until 2010, a further (and little known) restriction was imposed on New Zealand doctors wishing to practice in Australia.

In Australia, services provided in the public health system are funded by the government under the Medicare scheme. Treatment provided in a public hospital is fully subsidised by Medicare and so is free to any eligible patient. General practitioner and other specialist services provided in the community are also subsidised by Medicare, although a doctor is able to charge patients a fee in addition to the amount covered by the Medicare subsidy. However, in order to be able to “bill on Medicare” outside of the public hospital system the doctor providing the services must have a Medicare provider number.\(^3\)

The section 19AB restrictions
In the mid-1990s, amidst concerns about an apparent oversupply, and unequal distribution, of medical practitioners, the Australian Government amended the Health Insurance Act 1973 to restrict the granting of Medicare provider numbers.\(^4\)

Of particular importance to New Zealanders was the enactment of section 19AB, which came into force on 1 January 1997. Under that section, any doctor defined as a “former overseas medical student” or “overseas-trained doctor” was unable to bill on Medicare for 10 years from the latter of the date on which they became a permanent resident or citizen of Australia, or the date of first medical registration in that country.
The only way around this so-called “10 year moratorium” was for the doctor to agree to work in a designated District of Workforce Shortage (DWS), as defined by the Australian Department of Health and Ageing, or to be granted a personal exemption under the Act (for example, where the doctor was taking up an academic appointment).

Indeed, allowing exemptions for those working in a DWS was designed to influence the “distribution of the medical workforce in rural and remote areas of Australia” and is generally considered to have been successful in this aim, with the contribution of overseas-trained doctors “fundamental to the delivery of health care in rural and remote areas”.

The issue for New Zealanders and for New Zealand medical schools was the way in which the critical terms were defined. Despite New Zealand medical schools being accredited by the Australian Medical Council (in the same way as Australian medical schools), those gaining a primary medical qualification from Auckland or Otago in New Zealand were designated as “overseas-trained doctors”, irrespective of residency and citizenship.

The situation for New Zealanders studying at Australian medical schools was even more counter-intuitive, as illustrated by the case of Dr Mike Belich which was picked up by the mainstream media last year. Dr Belich is a New Zealand citizen who migrated to Australia at the age of 14. Having graduated from the University of New South Wales in 2002 and nearing the end of his vocational training as a general practitioner, he was refused a Medicare provider number on the basis of section 19AB. Having not been an Australian permanent resident or citizen at the time he enrolled at medical school (despite having become one since), Dr Belich was considered to be a “former overseas medical student”.

Due to family reasons Dr Belich was unable to relocate to a DWS so, instead, he filed a “human rights” challenge to the section 19AB restrictions in the Federal Court of New South Wales.

Changes to section 19AB

Due to a recent change in the law, Dr Belich’s case now does not need to be heard. On 1 April 2010, the Health Insurance Amendment (New Zealand Overseas Trained Doctors) Act 2009 came into effect, amending section 19AB and associated sections of the principal Act.

The Act no longer refers to former overseas medical students. Instead, the term “foreign graduate of an accredited medical school” is used. An accredited medical school is one accredited by the AMC, either in Australia or New Zealand, and includes both Otago and Auckland Medical Schools.
A foreign graduate of such a school is a person who was not an Australian or New Zealand permanent resident or citizen at the time of first enrollment.¹⁰ As a result, no New Zealand or Australian permanent resident or citizen enrolling in a medical school in Australia or New Zealand will be subject to the 10-year moratorium upon graduation any longer, including:

- Australians who study in New Zealand but later return to Australia;
- New Zealanders who study in Australia and stay in, or later return to, Australia; and
- New Zealanders who study in New Zealand but later migrate to Australia.

However, a person who was not an Australian or New Zealand permanent resident or citizen at the time of enrolling in medical school or who graduates from a non-accredited medical school (including all medical schools outside of the two countries) will still be subject to the restrictions in section 19AB.

The Explanatory Memorandum to the Bill expressly recognises the pattern of overseas-trained doctors entering New Zealand and obtaining New Zealand citizenship as a pathway to residence and medical practice in Australia.⁵ Such doctors will continue to be covered by the moratorium for 10 years after the date of their first medical registration in Australia, provided Australian permanent residence or citizenship has also been obtained by that date.¹¹

While the restrictions in section 19AB have been relaxed, the conditions on Medicare billing imposed by section 19AA remain. In short, to bill on Medicare, all doctors registering to practice in Australia on or after 1 November 1996 must have completed specialist training, including as a general practitioner.¹²

Consequently, the changes to section 19AB will not impact directly on new graduates, but on those who have already completed specialist training or who are making decisions with that future in mind.

**Likely impact of the changes**

Clearly the changes to the legislation will have significant personal impact for doctors such as Dr Belich who now will not be subject to the moratorium. There are also those for whom the moratorium will end earlier than they had anticipated, either because it will cease to apply or due to a change in the date from which the 10-year period is calculated.¹¹ What is perhaps more controversial is the impact the changes are likely to have on the medical workforce on each side of the Tasman, particularly in New Zealand.

**Australia**—The Bill Digest for the Act predicts that the removal of New Zealanders from the ambit of the section 19AB restrictions is “unlikely to have any significant effect” on the number of doctors required to work in DWS.⁶ This conclusion is based on the “negligible number of New Zealand medical students studying in Australian medical schools”⁶ and so the relatively small number of New Zealanders previously able to be directed to DWS under section 19AB. However, it is not only New Zealanders who have studied medicine in Australia who were subject to the moratorium, but any New Zealander wishing to bill on Medicare who had been
registered to practice in Australia for less than 10 years or who had been a permanent resident of Australia for less than that period.

As about 25% of the Australian medical workforce completed their primary medical training outside of Australia, and around 8% of that number trained in New Zealand, the impact could be rather greater than is anticipated. Indeed, over the next few years, as the pressure on internship places grows, it is likely that fewer overseas students will be able to continue their medical education and career in Australia; leading to fewer doctors who can be directed to DWS.

However, while the number of doctors who can be required to work in DWS is likely to decrease, the total number available for work may well increase due, in no small part, to the additional contribution of New Zealand-trained doctors.

**New Zealand**—With higher salaries and arguably more opportunities on offer elsewhere, New Zealand loses significant numbers of doctors every year. Due to its proximity and the ability to work, Australia is the destination of choice for many. Two years after graduation, retention rates for New Zealand-trained doctors are about 83%, dropping to between 76% and 78% over the next few years and levelling out at between 63% and 68% in years 8 to 12 after graduation.

For three groups, the disincentive to relocate to (or remain in) Australia has been removed: New Zealanders trained at New Zealand medical schools, Australians trained at New Zealand medical schools, and New Zealanders trained at Australian medical schools. Such doctors will now be able to bill on Medicare immediately upon satisfying the training criteria in section 19AA of the Act. As expressed by Dr Tim Malloy of the New Zealand Rural General Practice Network, “[i]t’s one less barrier—or one more hurdle for us in retaining our own medical practitioners”.

At present, many doctors move to Australia immediately after graduation in order to begin practice in the Australian health system as soon as possible. While many are motivated by the impact of higher salaries on the size of their student loans, others have sought to begin their 10-year moratorium so that they will be free from location restrictions soon after completing specialist training. It is quite possible that the removal of the moratorium will lead some new graduates to delay moving across the Tasman as the urgency to be registered and resident in Australia (so as to begin the 10-year period) decreases.

The bigger impact of the change in the legislation is likely to be those doctors in the years of specialist training or who have already qualified as specialists or general practitioners—the very doctors in whom New Zealand has made the most investment to date.

But what can be done to stem this tide? Clearly, it is not just a problem for the medical workforce, with around 550,000 New Zealanders citizens currently residing in Australia, many of them other skilled professionals. But for medicine, the shortages are already being felt. For some time, overseas-trained doctors have been recruited to fill the gaps and now constitute around 38% of the New Zealand medical workforce. However, retention of overseas-trained doctors in New Zealand is very poor, with fewer than 50% remaining 1 year after initial registration, dropping to around 30% over the next couple of years; representing a less than ideal return on investment for this country.
Again, this situation has an Australian dimension as research suggests that New Zealand is commonly used as a gateway for those wishing to ultimately end up practicing in Australia.18

Putting all of these pieces together creates a concerning picture for the New Zealand medical workforce and the public that rely on it for services. Already New Zealand has the highest proportion of overseas-trained doctors in the OECD18 so the changes to section 19AB will likely increase this percentage.

As more New Zealand-trained doctors are attracted to Australian shores, New Zealand will need to compensate somehow, probably by importing more and more overseas-trained doctors. While there is no evidence that overseas-trained doctors are of lesser skill or quality, there is inevitably a period of cultural, social, and systems adjustment needed for every such doctor, the degree of which will depend on the doctor’s country of origin. Then there are the ethical issues inherent in recruiting doctors from countries such as Zimbabwe where the shortages in the health workforce are of an entirely different magnitude to our own.19

One area in which the migratory flow towards New Zealand may actually increase is with respect to medical students. If they know that it will not restrict their ability to later practice in Australia, more Australians may choose to study medicine at Otago or Auckland University. While this may seem like a positive outcome for New Zealand, it is really only a short-term gain as any students motivated to study here as a result of the section 19AB changes are likely to be doing so with the plan to return to Australia afterwards, amounting to still more New Zealand-trained doctors migrating across the Tasman.

**Conclusion**

While the changes to section 19AB are predicted to be insignificant from Australia’s perspective, they have the potential to be significant for New Zealand. It remains to be seen exactly what the impact will be but the author predicts a net-loss to New Zealand of locally trained doctors. It is anticipated that the most influenced section of the medical workforce will be those training to work as, or who currently work as, specialists or general practitioners.

Curtailing the outflow of much needed medical talent from New Zealand is one of the biggest challenges facing our country today. The Australian changes are simply one more factor to be taken into account in formulating an appropriate policy response.

**Competing interests:** None.

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5. Explanatory Memorandum to the Health Insurance Amendment (New Zealand Overseas Trained Doctors) Bill 2009.
12. Health Insurance Act 1973, s 19AA.