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Open letter: Misrepresentation of allied health providers and pricing

Dear Ms Mackey and Minister Shorten

We write as members of the National Assistive Technology Alliance (NATA) regarding an example published by the NDIS Quality and Safeguards Commission (the Commission) as part of its recent communications on fair pricing of products and services for NDIS participants.

As representatives of various bodies whose members provide services and products to NDIS participants, we fully support efforts to ensure quality and equity in access to and provision of supports for people with disability. This is evidenced by our 2022 NATA member organisation Industry Joint Statement 'Business integrity and legal requirements in the assistive technology sector' (see attached). We also support ongoing efforts to eliminate fraudulent practices from the NDIS.

However, we have strong concerns about two of the Commission's published scenarios concerning the pricing of allied health services (see <https://www.ndiscommission.gov.au/fair-pricing>). The first scenario is in a document titled 'Price differentiation – Guide for Participants'. It presents an example of advisory services being delivered by an occupational therapist to an NDIS participant at one price point, and then at another (significantly lower) price point for other 'customers'. The Commission's document states that 'in most cases this would be unacceptable and fail to meet the principles of acting with honesty, integrity, and transparency.'

The second scenario is in a document titled ‘The NDIS Code of Conduct – Guidance for NDIS Providers’ (September 2023). Under a section on ‘sharp practices’, the document refers to ‘Amy’ being charged differently for physiotherapy services because she is an NDIS participant (p 24). In the scenario the Commission goes on to discover systemic price differentiation in several clinics across Australia and issues a Compliance Notice. The Commission also consults the ACCC for it to consider whether the provider’s conduct may also raise issues of misleading conduct or unfair contract terms.

We strongly dispute the representations and associated implications in both scenarios. Prices for allied health services are set based on price guides from existing State-based and national disability and injury insurance schemes, as well as in consideration of the administrative, regulatory and individual and organisational registration requirements of the scheme within which the services are delivered.

The NDIS has one of the most regulated service environments, with significant administrative demands. Allied health peak bodies have regularly advocated to NDIS pricing reviews that current pricing caps for therapy supports remain insufficient to cover the true costs of providing supports to participants. We are aware that many of our providers, whether in the NDIS or another care and support sector, actually opt to make a loss on some service provision in order to provide the input that their client needs, but otherwise cannot afford.

We particularly object to the aspersions cast upon the allied health workforce, who are dedicated to their professional work and associated codes of practice. Unfortunately, the imputations of the Commission’s two scenarios are not isolated examples. Physiotherapists and allied health professionals in general have been scapegoated as ‘price gouging’ and ‘robbing’ NDIS participants throughout this year, including in recent media comments attributed to Minister Shorten and in anecdotes included in the interim and final reports of the NDIS Review.

However, we are yet to see any substantive evidence of such alleged behaviour by allied health professionals. As far as we are aware, none of our member organisations have received any complaints about the service pricing scenario represented by the Commission. Nor have we ever been alerted by the Commission or the National Disability Insurance Agency to such issues, including prior to publication of the documents referred to above.

After a taxing year for both NDIS participants and providers, the timing of the release of this material by the Commission is also very problematic, as it leads into the Christmas period where there is less capacity to engage constructively to address the significant impact.

For all of the above reasons, we request that the scenario is immediately withdrawn from the public domain, and we seek to meet with the Commission and the Minister on this specific matter in 2024.

We remain committed to our various and ongoing investment of considerable organisational and member resources, expertise and time to continue to work constructively with the Minister, the Department of Social Services, the National Disability Insurance Agency and the Commission. Our

overarching and shared ambition is to ensure an efficient and impactful NDIS which holds central the goals and needs of people with disability and their families and has available a high quality and effective workforce delivering NDIS-funded services.

Kind regards



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on behalf of:

Allied Health Professions Australia (AHPA)

Australian Orthotic Prosthetic Association (AOPA)

Australian Physiotherapy Association (APA)

Australian Rehabilitation and Assistive Technology Association (ARATA)

National Disability Services (NDS)

Occupational Therapy Australia (OTA)

Pedorthic Association of Australia (PAA)