

9 December 2011

Manager
Philanthropy and Exemptions Unit
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Sir/Madam,

Response to the 'A Definition of Charity' Consultation Paper

The Australian General Practice Network (AGPN) is pleased to provide the following response to the Government's consultation on introducing a statutory definition of a charity.

AGPN is the peak national body of the divisions of general practice, comprising 110 divisions across Australia, as well as eight state based organisations (SBOs). Network Members (divisions, SBOs and AGPN) are not-for-profit small to medium enterprises whose core activity is to promote the health and wellbeing of Australians through the delivery and organisation of primary care through general practice and broader primary care teams. Divisions of general practice are currently in the process of establishing Medicare Local primary health care organisations under the National Health Reform Agenda.

AGPN is an income tax exempt charitable entity under subdivision 50-B of the *Income Tax Assessment Act 1997* and a tax concession charity (health promotion) under section 123D of the *Fringe Benefits Tax Assessment Act 1986*.

Through its core activity of health promotion or advancement, the Network plays a pivotal role in ensuring all Australians can access a high quality health system. Many programs implemented by Network Members at the local level are funded through the Australian Government Department of Health and Ageing. These programs include aged care, mental health, Aboriginal health, practice nursing, immunisation, quality use of medicines, chronic disease management and eHealth.

AGPN supports the Government's proposal for a statutory definition of a charity that would be applicable across all Commonwealth laws from 1 July 2013. Such an approach will provide greater certainty for the Network as to what is considered charitable and assist in reducing the current compliance burden of the Network. AGPN also supports the Government's long term aim of having a single definition of charity and charitable purpose for all purposes and for all levels of government.

AGPN notes that the proposed definition of a charity will take a similar form to that proposed in the Charities Bill 2003, where an entity satisfying the following elements would be a charity:



1. the entity must be a not-for profit entity;
2. it has a dominant purpose which is charitable;
3. it is for the public benefit;
4. it does not engage in activities that do not further, or are not in aid of its dominant purpose; and
5. it does not have a disqualifying purpose.

AGPN supports amending the 2003 definition to replace the 'dominant purpose' requirement with the requirement that a charity have an 'exclusively charitable purpose', so long as the charity can undertake activities that are unrelated, or not intrinsically charitable, but are ultimately in furtherance or in aid of its charitable purpose.

With respect to the charitable status of a peak body, AGPN believes that further clarification is needed following the New South Wales Administrative Tribunal's decision. AGPN believes that the charitable status of a peak body should be based on the fact that it satisfies the definition of a charity (as outlined above) in its own right and not simply the degree of integration and commonality of purpose with its members (who are charities).

AGPN supports the 2003 definition of charitable purpose, which included the following:

1. the advancement of health;
2. the advancement of education;
3. the advancement of religion
4. the advancement of social or community welfare;
5. the advancement of culture;
6. the advancement of the natural environment; and
7. any other purpose that is beneficial to the community.

Finally, we note that the 2003 Bill defined a 'disqualifying purpose' as:

1. political advocacy that is more than ancillary or incidental; or
2. illegal activities.

AGPN supports the Government's proposal to amend the 2003 definition of political advocacy, such that charities can engage in public debate and policy advocacy in order to influence government law or policy, provided their attempts to do so fall within their charitable purpose (e.g. the advancement of health).

Thank you once again for the opportunity to comment on these reforms.

Yours sincerely



Leanne Wells
Chief Executive Officer