

Financial Services Council  
**Life Insurance Code of Practice 2.0**  
September 2021

# Improve the mental health of communities

# Royal Australian and New Zealand College of Psychiatrists submission

## Life Insurance Code of Practice consultation

### **About the Royal Australian and New Zealand College of Psychiatrists**

The Royal Australian and New Zealand College of Psychiatrists (RANZCP) is a membership organisation that prepares doctors to be medical specialists in the field of psychiatry, supports and enhances clinical practice, advocates for people affected by mental illness and advises governments on mental health care. The RANZCP is the peak body representing psychiatrists in Australia and New Zealand and as a bi-national college has strong ties with associations in the Asia-Pacific region.

The RANZCP represents more than 7300 members, including more than 5300 qualified psychiatrists, many of whom have specific interest in ensuring people with mental health conditions are not faced with discrimination when accessing life insurance.

### **Introduction**

The RANZCP welcomes the opportunity to contribute to the Financial Services Council development of the next iteration of the Life Insurance Code of Practice 2.0. The recommendations contained within this submission are based on extensive consultation with RANZCP Committees which are made up of community members and psychiatrists with experience in relation to life insurance. As such, the RANZCP is well positioned to provide assistance and advice about this issue due to the breadth of academic, clinical and service delivery expertise it represents.

As the peak body representing psychiatrists in Australia and New Zealand, the RANZCP is in a unique position to comment on mental health.

Life insurance companies in Australia and New Zealand perform an important service to the community by providing support to injured people. However, many aspects of these personal injury and workers' compensation schemes impose serious disadvantages on people with mental injuries, with the frequent result that their recovery is delayed and their suffering is compounded. The RANZCP has developed this submission in order to highlight aspects of the life insurance Code that could be further improved and makes recommendations to ensure that claimants receive the support that they need.

### **Feedback in relation to supporting people with mental health conditions**

The RANZCP is supportive of relevant training for employees to aid supporting customers experiencing vulnerability, as outlined in section 6 of the Code. We would welcome more detail of the type of accredited training which will be delivered, and specifically recommend the inclusion of trauma-informed training. As described in the RANZCP position statement on [trauma-informed practice](#) many people who have experienced trauma, report adverse experiences and outcomes when engaging with services. The RANZCP therefore emphasises the importance of trauma-informed communications to avoid exacerbating trauma in customers.

The RANZCP is strongly supportive of encouraging individuals to share their vulnerability to seek the support they require, as outlined in item 6.9. We suggest the Code has consideration to the barriers preventing individuals seeking help, such as being unable to articulate the extent of vulnerability or a lack of understanding regarding what vulnerability refers to from the perspective of others. The RANZCP recognises the Code's proposal for extra support from lawyers, consumer representatives, interpreters and friends for customers, as outlined in item 6.11, however suggest this should extend to informal carers and family members for greater clarity.

### **Feedback in relation to mental health, family medical history and genetics**

The RANZCP notes in section 4.18 mental health conditions require further information compared to physical health conditions. We suggest both mental health and physical health should be treated equally, and thus covered under the same terms. The RANZCP has concerns these practices could be considered discriminatory against mental health conditions.

Whilst mental health conditions can carry a risk of suicide, so do other chronic physical health conditions such as asthma or arthritis, which the RANZCP notes have not been singled out. It can therefore be viewed as discriminatory to incur special treatment from insurance companies towards mental health conditions. We suggest the Code recognises the unfairness in only targeting mental health conditions.

The RANZCP's report *Minding the Gaps* Cost barriers to accessing health care for people with mental illness emphasises the RANZCP's commitment to addressing stigma and discrimination. The RANZCP highlights working collaboratively with consumers and other health care groups is essential to eliminating attitudinal barriers to the provision of high quality and comprehensive care to people with mental illnesses.

Whilst the RANZCP recognises the difficulties underwriting people with a history of treatment for mental health symptoms, due to difficulties measuring and proving symptoms. We have concerns that the underwriting process outlined in the Code does not recognise heterogeneous groups of people with mild symptoms who have a good prognosis.

### **Feedback in relation to claims decisions**

The RANZCP recommends section 5 on claims decisions pays greater attention to the implications of having claims denied. The RANZCP highlights that there can be extreme implications for individuals with mental health conditions if their claim is denied. In some cases, receiving this bad news could heighten risk of suicide or suicidality for claimants, particularly those experiencing mental health conditions. As described in the RANZCP's position statement on [suicide prevention – the role of psychiatry](#) psychosocial risk factors associated with suicide can include legal problems, economic problems and limitations due to disability or chronic health conditions. These issues may also occur when claims are denied, therefore the RANZCP would suggest the Code include duty of care steps to avoid exacerbating mental health conditions when rejecting claims.

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The RANZCP recommends underwriters should be required to have the same skill set for mental health as they do for physical health in order to support people with mental health conditions appropriately. The RANZCP suggests if mental health training is required for underwriters, it should be provided by an accredited provider.

### Feedback in relation to surveillance

The RANZCP suggests the need for surveillance could be minimised if the Code were to utilise seeking collateral information from a diversity of relevant people (where relevant and with appropriate consent) opposed to only utilising health professionals to collect information. The RANZCP highlights in its position statement on [public insurance schemes: advocating for mental injury claimants](#) that whilst surveillance may help establish whether a claimant has accurately reported their limitations, this must be balanced against the inherent risks – such as exacerbating mental injury and paranoia.

It is important that the Code recognises that some mental health conditions are not necessarily evident on a continual basis, and as a result, the absence of these signs during surveillance does not constitute proof that an underlying clinical problem does not exist, which the RANZCP highlighted in its submission on [Review of Activity Investigations](#). The RANZCP further highlights activities captured via surveillance often do not disprove psychiatric improvement.

The RANZCP supports item 5.38(e) in the Code regarding stopping surveillance if evidence is received from a doctor or psychologist of it negatively affecting health. We also suggest that evidence of surveillance negatively affecting a person's health becomes apparent, it should be accepted from not only doctors or psychologists, but others who may have a greater understanding of the person's daily life.

Surveillance is an extremely sensitive area for people with mental health conditions, particularly individuals experiencing psychosis. The RANZCP urges that specific consideration should be given to the potential ramifications of utilising surveillance towards a person who is experiencing paranoia as a part of their mental health condition.

### Feedback in relation to medical exams

The RANZCP supports offer of financial compensation for medical exams when collecting information in item 5.21. The RANZCP highlights financial compensation should be further extended to costs including those incurred by a support person or family member who have assisted the attendance of medical exams.

### Feedback in relation to interviews

The RANZCP appreciates the offer in the Life Insurance Code to facilitate interviews with interviewers who can assist if a person has a known cognitive decline or impairment. However, the RANZCP notes the Code does not mention psychosocial disability in this category and urges the FSC to recognise cognitive decline and impairment as only one component of disability, and therefore should offer assistance in regard to other components. The RANZCP highlighted in its submission [Access and Eligibility Policy with independent assessments](#) to the National Disability Insurance Agency, the importance of a deep understanding and knowledge of psychosocial disability through appropriate experience and qualifications to assist in a proper functional capacity assessment.

The Life Insurance Code offers the provision of key information before information collection interviews in item 5.28. The RANZCP highlights most individuals are unlikely to read the Code in detail, meaning individuals may not be aware they can be provided with a recording of their interview, the RANZCP suggests this process should be stated upfront so individuals can remain more informed.

We welcome the Code highlighting in item 5.29 what will be covered in the interviews. The RANZCP recommends the Code also includes information highlighting what the interview will not include, to help alleviate anxieties surrounding the interview process.

### **Feedback in relation to the provision of patient files**

The RANZCP has concerns regarding the practice of insurers requesting patient files from psychiatrists, as outlined section 4.8 and 5.14. The RANZCP suggests it is not in the best interest of the patient for insurers to request patient files due to privacy and confidentiality issues. The RANZCP highlights that often psychiatrist's file notes contain information regarding patient's family and loved ones, who would be unable to consent to the release of such personal information.

The RANZCP emphasises psychiatrists record extremely personal information, which is often not relevant to a claim. The RANZCP therefore has concerns regarding psychiatrists having to constrain their record keeping in fear of having to deliver information to non-clinical claims assessors, whilst, additionally having a negative effect of a patient's trust in psychiatrists.

### **Feedback in relation to sales**

The Code highlights in item 2.16-2.26 that staff will be appropriately trained, and the RANZCP would recommend that there should be specific training relating to vulnerability and exploitation. The RANZCP emphasises with the prevalence of online and phone sales related scams, salespeople should be appropriately trained to alleviate confusion when distinguishing legitimate calls from scams.

We also urge that phone and online contact processes be accompanied by a timely paper record of contact, to help individuals, particularly those who experience mental health issues, and may struggle to manage sufficient records.

### **Feedback in relation to de-medicalisation of the industry**

In reference to section 1.18, 1.19 and 1.22 the Code explores how the insurance industry engages with Independent Service Providers. The RANZCP acknowledges the mention of insurers utilising Independent Medical Examiners (IMEs), however we think that this information could be more thorough. The RANZCP encourages that there should be mention of the medical practitioners who aid insurers in understanding medical aspects of applications for policy or subsequent claims.

The RANZCP has concerns over the use of unregistered practitioners providing advice to insurers. Unregistered practitioners mostly provide advice to a reasonable standard. However, these practitioners are not accountable to any medical registration body to ensure a maintenance of standards, ethics and continuing medical education.

The RANZCP urges against the de-medicalisation of the insurance industry and encourages insurers to minimise the use of unregistered practitioners and non-clinicians when making important decisions about how claims are managed.

The RANZCP additionally advocates against the use of 'doctor shopping' in relation to IMEs. As emphasised in our position statement on [public insurance schemes: advocating for mental injury claimants](#) the RANZCP highlights the issue of insurers sending claimants to multiple IMEs to elicit a diagnosis that helps the insurer reject the claim. The RANZCP recommends the development and enforcement of guidelines regarding IMEs as well as limits on the number of times claimants can be required to see IMEs to reduce 'doctor shopping'.