

24 June 2015

PCEHR/HI Discussion Paper Feedback
Department of Health
MDP 1003
GPO Box 9848
Canberra ACT 2601

Email: ehealth.legislation@health.gov.au

Dear Madam / Sir

RE: Electronic Health Records and Healthcare Identifiers: Legislation Discussion Paper

Thank you for asking the Royal College of Pathologists of Australasia (the College) to comment on the consultation paper.

The College would like to reinforce its view that pathology reports represent the professional opinion of the pathologists and should be reproduced in a format approved by the pathologist. This would be of increased importance in an opt-out environment.

In addition to the above, the College would like to comment on the following content in the discussion paper:

2.1 Personally controlled electronic health record system (page 4)

"A PCEHR is an electronic summary of a person's key health information, assembled from information held by distributed participating organisations, known as registered repository operators, and the National Repositories Service operated by the PCEHR System Operator."

As noted in the College's submission to the PCEHR Review, without relevant diagnostic reports the collection of information held in a PCEHR could not be considered to be a summary of a person's key health information.

2.2 Review of the PCEHR system (second paragraph, page 4)

"The PCEHR Review made thirty-eight recommendations aimed at making the system more usable and able to deliver the expected benefits in a shorter period, including new governance arrangements, moving to an opt-out system, and improving usability for healthcare providers and individuals."

We note this document only opens for discussion what needs to change in terms of regulation and not the broader and more important questions of strategy, purpose and design which also warrants formal input from Fellows of the College.

3.1.2 Definitions - Alignment between HI and PCEHR Acts (page 9)

"Consider: The PCEHR Act definitions for "healthcare" and "health information" should align as closely as possible to those equivalent terms in the Privacy Act to ensure the PCEHR system is consistent with the operation of the Commonwealth privacy framework. If we do not amend the Privacy Act, inconsistencies would arise and healthcare providers could be subject to different privacy arrangements"

depending on whether or not they are using the PCEHR system.”

The College supports this recommendation of alignment between the PCEHR Act and Privacy Act.

3.1.2 Definitions - Expanding “identifying information” (page 10)

“It is proposed that the definition of “identifying information” in relation to an individual include this regulation-making power. Such a regulation-making power would provide flexibility for the PCEHR System Operator and/or the HI Service Operator to collect additional information if it is necessary. For example, it is intended that regulations be made that would prescribe the following information as identifying information”

There is evidence that identification is critical to quality and safety related to pathology. Multipoint identification such as that described in Australian Standards and NPAAC Guidelines for patient identification should be required. The quoted improved 2% error rate for patient matching on IHI alone is considered unacceptably high for pathology.

3.2.1 Establishment of ACeH - Transition to new arrangements (page 11)

“As recommended by the PCEHR Review, an implementation taskforce will be established (administratively) from July 2015 to oversee and advise on the design, establishment and transition to the new national eHealth governance arrangements, including transitioning functions from NEHTA.”

It is critical that diagnostics on which 70% of clinical decisions rely, and which has the longest experience with electronic records management, has a seat at the table in any implementation and governance arrangements for health records in Australia.

3.3.1 An opt-out PCEHR system? (page 12)

“Note: Opt-out participation means that instead of enabling individuals (or their representatives) to choose to have a PCEHR, the system automatically creates a PCEHR for individuals unless they (or their representatives) choose not to have one.”

In an Opt-out system the process for consumer, clinicians and pathologist to control publishing of reports to the PCEHR on a report by report basis becomes even more critical than with the existing Opt-in system.

3.5.4 Penalties for misuse of information –

Consider – in relation to healthcare identifiers: (page 23)

“Would it be more useful to introduce civil penalties for less serious misuses of healthcare identifiers for individuals? For example, to allow a more graduated range of enforcement options.”

The College supports the concept of a more graduated framework for penalties to bring them into line with severity of the breach.

3.6.2 Privacy Assessments of AHPRA (page 24)

“The Privacy Act allows the Information Commissioner to assess agencies’ and organisations’ handling of information in accordance with the Australian Privacy Principles (section 33C), however the HI Review identified that AHPRA is outside of the Commissioner’s jurisdiction because it is neither an agency nor an organisation.

Given AHPRA's role in assigning healthcare identifiers to individual healthcare providers and as a source of critical information for the HI Service Operator, it is proposed that changes be made to ensure that the Commissioner can conduct assessments and carry out investigations of AHPRA in respect of its handling of healthcare identifiers."

The College supports this proposal.

4. Next steps (page 25)

"Further public consultation on subordinate legislation (regulations and rules) may be undertaken after August 2015."

More advance notice of consultations would be helpful. In particular where briefings are concerned, consideration should be given to conflicts with known meetings.

If you have any queries regarding this submission, please contact me at bronwenr@rcpa.edu.au or on 02 8356 5813.

Yours sincerely



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Deputy Chief Executive Officer