



Aboriginal and Torres Strait Islander Health Practice	Occupational Therapy
Chinese Medicine	Optometry
Chiropractic	Osteopathy
Dental	Pharmacy
Medical	Physiotherapy
Medical Radiation Practice	Podiatry
Nursing and Midwifery	Psychology

Australian Health Practitioner Regulation Agency

25 June 2015

PCEHR/HI Discussion Paper Feedback
Department of Health
MDP 1003
GPO Box 9849
Canberra ACT 2601

Email: ehealth.legislation@health.gov.au

Dear eHealth Consultation

Electronic Health Records and Healthcare Identifiers: Legislation Discussion Paper

Thank you for the opportunity to comment on the *Electronic Health Records and Healthcare Identifiers: Legislation Discussion Paper* (the Discussion Paper).

These general comments are provided by AHPRA and relate to the potential impact of changes to eHealth records and healthcare identifiers on registered health practitioners and the National Registration and Accreditation Scheme.

We note that the proposed changes outlined in the Discussion Paper are intended to address impacts on clinical workflow identified in implementation so far, increase the number of individuals and healthcare providers participating in the eHealth record system and make the system more user-friendly. The proposed changes are expected to produce a system which aligns better with existing clinical workflows.

We recognise the importance of work on electronic health records to improved and contemporary patient care and support efforts to make the system as simple and user-friendly as possible.

While the changes outlined in the Discussion Paper do not directly relate to the regulatory functions of National Boards, they clearly have implications for the practice of registered health practitioners. As you would know, the Codes of Conduct or equivalent of most National Boards provide guidance to registered health practitioners about good practice in record-keeping, including electronic health records. A number of National Boards have developed specific guidelines on health records for registered health practitioners, such as the Dental Board of Australia's *Guidelines on Dental Records*.

Accordingly, at this stage we have some general comments on the proposals and an ongoing interest in the detail of the proposed changes as they are developed. We do not expect the governance changes proposed in the Discussion Paper to directly impact on registered health practitioners or the National Scheme. We note that the proposed trials of an opt-out rather than opt-in approach for individual patients, to try to increase participation in the eHealth system, is likely to have flow-on impacts for registered health practitioners, as more of their patients will be using an electronic health record. We support the aims outlined in the Discussion Paper of clarifying the requirements that apply to health care organisations and individual health practitioners respectively.

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The Discussion Paper is more directly relevant to AHPRA because of our responsibility for assigning healthcare identifiers to most individual healthcare providers who are registered health practitioners. AHPRA supports the proposals in the Discussion Paper to improve the interface between AHPRA and the HI Service Operator. The Discussion Paper further proposes that "AHPRA could play a role in improving healthcare providers' adoption of healthcare identifiers, such as making it more accessible to providers and including it as part of regular professional registration renewal activities. It is proposed to ensure that AHPRA can disclose HPI-Is to healthcare providers to improve adoption and encourage greater uptake of eHealth." These changes have clear potential impacts for AHPRA and we would like to be involved in more detailed consultation about the proposals to better understand the implications for our work.

Further, the Discussion Paper notes that AHPRA is currently outside the Information Commissioner's jurisdiction to assess agencies' and organisations' handling of information in accordance with the Australian Privacy Principles (section 33C), because it is neither an agency nor an organisation. The Discussion Paper proposes 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, given AHPRA's role in assigning healthcare identifiers to individual healthcare providers and as a source of critical information for the HI Service Operator.

AHPRA is currently subject to a version of the *Privacy Act 1988* (Cth) that is modified and applied to AHPRA as a state and territory law by the *Health Practitioner Regulation National Law* (as in force in each state and territory) ('**the National Law**'). The National Law also creates the office of the National Health Practitioners Privacy Commissioner and gives that Commissioner jurisdiction to administer the modified version of the Privacy Act. On the face of it, the proposal in the Discussion Paper would appear to subject AHPRA to two separate and different versions of the Privacy Act, administered by two separate Commissioners. AHPRA requests further discussion about this proposal to extend the jurisdiction of the Information Commissioner to enable us to better understand the proposal and its implications. In relation to the broader issues, the National Boards and AHPRA look forward to the opportunity to comment on the detail of the proposed legislation when it is available.

We note the proposed changes at paragraph 3.4.1 to the liability arrangements applicable to the Australian Commission for Electronic Health (AcEH). We seek a further explanation of how this liability regime is proposed to work, so we can ensure it does not increase downstream risks to parties that will be compelled to provide data to AcEH, such as AHPRA.

Paragraph 3.4.7 discusses the System Operator's obligation to notify individuals and entities about decisions to cancel, suspend or vary an individual's or an entity's registration. The proposed changes include allowing the System Operator to choose the most appropriate method to make notifications. We seek further details about how the System Operator will identify the 'most appropriate' method.

We would request the opportunity to discuss these matters prior to the changes being finalised. Please contact Chris Robertson, Executive Director Strategy and Policy Directorate on 03 8708 9037 to arrange a suitable time to meet to discuss these important issues.

Thank you again for the opportunity to comment.

Yours sincerely



Martin Fletcher
CEO

CC: Wendy Southern, Department of Health