VICTORIAN GOVERNMENT SUBMISSION TO THE SENATE STANDING COMMITTEE INQUIRY INTO THE NATIONAL HEALTH REFORM (NATIONAL HEALTH PERFORMANCE AUTHORITY) BILL 2011

Introduction

The Victorian Government is committed to providing greater access to hospital performance information for patients. For example, $4 million was allocated in the 2011-12 State Budget to the development of a new health website. The government has already published a range of health system performance data never before made available to the public; including Patient transfer times to hospital; Hospital bypass and Hospital Early Warning System information. 2011/12 budget papers indicate that data on unplanned readmission rates for common conditions and common surgeries; hospital infection rates; and consumer participation will be reported publicly. The development of this website is independent of ongoing efforts through the Council of Australian Governments (COAG) national health reform agenda to improve transparency and accountability.

On this basis, the Victorian Government agreed under the auspices of COAG to the establishment of the National Health Performance Authority (NHPA) to improve transparency and accountability through national reporting to the public on the performance of hospitals and primary health care services.

However, the NHPA, as proposed in the *National Health Reform (National Health Performance Authority) Bill 2011* (the Bill), is so different from what was agreed at the 13 February 2011 COAG meeting, that the Victorian Government calls on the Senate to reconsider the Bill in its entirety and to consider whether there is a better way to achieve the fundamental objectives of enhanced transparency and accountability.

The Victorian Government now sees legitimate grounds for questioning whether:

- The NHPA outlined in the Bill satisfies two essential criteria endorsed by COAG: improved accountability for performance; and creating new national bodies without a net increase in bureaucracy; and
- COAG's objectives of enhanced transparency and accountability can be more sensibly achieved through alternative means.

More specifically, Victoria is concerned that as proposed in the Bill, the NHPA would:

- Undermine the State's role as system manager, in particular for managing the performance of public hospitals. This would confuse lines of accountability, thus creating inefficiency and impeding efforts to remedy any instances of poor performance;
- Expand the powers of the NHPA and the Commonwealth Minister for Health beyond what was agreed by COAG; and
- Create a large and costly new bureaucracy, contrary to the Prime Minister's commitment after the February 2011 COAG meeting to reduce bureaucracy.

The importance of preserving the role of the State as system manager

The role of the States and Territories (the States) as 'system managers' of the public hospital system is a fundamental tenet of recent COAG agreements, including the 2008 National

Healthcare Agreement, the 2010 National Health and Hospital Network (NHHNA) and the 2011 Heads of Agreement – National Health Reform (Heads of Agreement).

Sections 50 and 52 of the Heads of Agreement clearly allocate the system manager role to States. This means that States are specifically responsible for:

- Day-to-day hospital system operation to deliver strong performance and patient outcomes;
- System-wide public hospital service planning and policy; and
- Planning and delivering teaching, research and training in public hospitals.

As the system manager, it is the State that determines what services are to be delivered, where and in what volume. It is also the role of the State to negotiate the financial arrangements that facilitate the delivery of health services.

The Bill undermines the States' system management role by:

- Requiring the Performance Authority to formally undertake direct communications with hospitals where a draft report includes a potentially adverse comment on performance. The Performance Authority would formally seek a response (section 62) and information on 'mitigating factors' (Explanatory Memorandum);
- Providing the Commonwealth Minister for Health with an ability to determine whether a particular entity is a LHN. This is a direct step into matters that are the responsibility of the State, which has statutory ownership of the public hospital system. The Commonwealth Minister has no jurisdiction over this matter (section 5); and
- Creating a two-tier system of access to information held by the NHPA that advantages Commonwealth Ministers and does not support States to perform their role as system managers (sections 116-120).

Expansion of the NHPA's functions and the Commonwealth Minister for Health's powers

The Victorian Government has a number of concerns about the expansion of the NHPA's role and functions and the provision of trigger points in the Bill for the Commonwealth Minister for Health to intervene in the management of the public hospital system by the States and Territories.

The Bill seeks to expand the powers of the NHPA and the Commonwealth Minister for Health beyond those agreed by COAG, by:

- Expanding the scope of the NHPA's functions beyond what was agreed by COAG (section 60(1)(c));
- Bestowing upon the Commonwealth Minister for Health an ability to direct the NHPA to perform certain functions in a manner that is not disallowable by the Federal Parliament (section 60(1)(f));
- Not compelling the NHPA to comply with relevant COAG agreements and resolutions (section 61);
- Giving the NHPA the capacity to formulate additional performance indicators, when the NHHNA specifies that this should only be done when asked by the Commonwealth Minister at the request of COAG (section 66);

- Giving the Commonwealth Minister the power to dictate terms of employment for the position of Chief Executive Officer of the NHPA (sections 93-97, 99, 100); and
- Excluding States and Territories from the development of the NHPA's strategic plan (section 112).

Failure to adhere to COAG-agreed implementation principles for national health reform

The implementation principles outlined in the NHHNA included the idea that 'Australians should be able to access transparent and nationally comparable performance data and information on hospitals, GPs and primary care, aged care services and other health services…' and 'that there should be no net increase in bureaucracy across Commonwealth and State Governments as a proportion of the ongoing health work force'.

The Bill goes beyond COAG's intention to improve transparency and accountability, and to do so with no net increase in bureaucracy.

In implementing transparent reporting, a clear distinction needs to be made between performance *reporting* and performance *management*. As per clause 42 of the Heads of Agreement, COAG agreed to establish a national performance authority to 'develop and produce reports on the performance of hospitals and health care services, including primary health care services'. COAG did not agree to a national body being created to assume the performance management and accountability role that the States perform.

If the NHPA were to have a role in performance management as proposed in section 62 of the Bill, it would duplicate and interfere with the State's ongoing performance management arrangements with hospital and health service boards. Interference by the NHPA will lead to multiple points of accountability, confusion and disruptions to health service governance. A key tenet underpinning effective system management is having a single point of accountability for performance management and planning in the public hospital system.

The Bill does not reflect the Prime Minister's own comments following the February 2011 COAG meeting, in which she stated that implementation of the national health reform agenda would lead to "less bureaucracy [and] less waste". The Commonwealth allocated in 2010/11 an annual budget of $29 million (and $118.6 million over the forward estimates) to the NHPA, which would fund over 200 new staff.

A new proposal to achieve COAG's objectives of enhanced transparency and accountability

To meet COAG's objectives of enhanced transparency and accountability and avoid an expensive new bureaucracy for national reporting, it would be possible to build on existing national reporting structures. For example, Australia already has a national health reporting body, the Australian Institute of Health and Welfare (AIHW). With some enhancement to its legislation to broaden its functions and make it a joint intergovernmental body accountable to Health Ministers, the AIHW could better meet COAG's objectives and reflect the spirit of partnership underpinning the 13 February 2011 Heads of Agreement.

The AIHW is the established, agreed and respected national health data collection, collation and reporting body. There is no need for another body to add to or duplicate that function

unless it is for another undeclared purpose i.e. that the NHPA takes performance management action in response to performance data. Currently, the AIHW has an annual budget of $46 million and approximately 370 staff. The AIHW was charged by the Commonwealth Government with responsibility for public reporting on hospitals. The Institute clearly could be resourced to continue this and take on the functions of the NHPA at less than the cost of a new national body and this would contain bureaucratic growth and release funds for patient services.

An enhanced AIHW could readily accommodate existing and new reporting by States (for example, through the MyHospitals website). While it is acknowledged that existing reporting by States may not be fully comparable across all jurisdictions and relevant indicators, the AIHW has the expertise and experience to advise Ministers on the best way to achieve full comparability. It would potentially be a much cheaper vehicle to achieve the intention of the COAG agreements.