

Senate Community Affairs Committee

ANSWERS TO ESTIMATES QUESTIONS ON NOTICE

HEALTH AND AGEING PORTFOLIO

Budget Estimates 2012-2013, 30 & 31 May and 1 June 2012

Question: E12-371

OUTCOME 10: Health System Capacity and Quality

Topic: EHealth

Type of Question: Written Question on Notice

Number of pages: 2

Senator: Senator Boyce

Question:

NEHTA and DOHA were both asked in the recent May Budget estimates “who takes the rap on safety” and “Who takes the responsibility within the government system?”

Mr Fleming replied in a number of ways by saying the following:

‘It was a shared responsibility’;

‘It must be fit for purpose’;

‘NEHTA takes responsibility for all of the steps’;

‘Consumer ownership of the PCEHR can be considered another safety mechanism. This is very much about consumer empowerment. As part of this process, the consumer will have a lot more information than they have ever had in the past. That in itself is a safety mechanism which did not exist before.’

While Jan Halton referred to a personal family anecdote that, in her view, indicated that the ‘new’ system will be safer but,

“That does not mean nothing will go wrong. Sometimes things do go wrong, but they do now.”

Clearly the question regarding who is liable if things do go wrong was avoided and not answered.

- a) Could you please provide a detailed statement regarding who does take the rap if something goes wrong with the system, the software, its inputs and its management?
- b) In that context, who is in charge of eHealth IT governance in Australia?
- c) What national, independent body with adequate statutory powers is charge of this?
- d) Is it not true that there is no one charged with this responsibility that has the regulatory authority to do such a job?

Answer:

a) to d)

The *Personally Controlled Electronic Health Records Act 2012* and the *Personally*

Controlled Electronic Health Records (Consequential Amendments) Act 2012 provide the legislative framework for the operation of the personally controlled electronic health record (PCEHR) system and state the penalties that apply for any breaches. Records are protected by audit trails, technology and data management controls, as well as security measures to protect against unauthorised access to information.

The Secretary of the Department of Health and Ageing is the System Operator for the PCEHR system. A robust governance arrangement is in place with a Jurisdictional Advisory Committee and an Independent Advisory Council providing advice to the System Operator. The Jurisdictional Advisory Committee includes representatives from all jurisdictions, including the Commonwealth, whose role is to provide information into the system and ensure that appropriate legislation and critical infrastructure to support the PCEHR system is in place. The Independent Advisory Council, comprising relevant independent member representatives, provides clinical, legal, security-related, administrative, consumer and health professional advice to the System Operator.

Clinical governance for the PCEHR system is supported by the Australian Commission on Safety and Quality in Healthcare with an independent clinical governance group advising on clinical issues.

The Office of the Australian Information Commissioner is the key regulator for the PCEHR system and is able to conduct audits, undertake investigations, impose a range of sanctions, accept enforceable undertakings and investigate complaints.