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Jeannette Radcliffe
Committee Secretary
Senate Standing Committee on Community Affairs
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Ms Radcliffe,

Thank you for the invitation to provide a submission to the Standing Committee on Community Affairs to assist its inquiry into the provisions of the *Health Legislation Amendment (eHealth) Bill 2015*.

NEHTA is the lead organisation supporting a national vision for eHealth in Australia. EHealth is not about technology. It is about the use of technology to improve delivery of healthcare- to make it safer, more efficient, and more effective. The primary objectives of the national eHealth agenda are to address fragmentation of information, reduce avoidable errors and hospitalisations, and to promote the use of technology to drive the safe and efficient delivery of healthcare services.

We support the ongoing improvement of the functioning and governance of eHealth services in order to bring about the intended benefits for governments and the community. This Bill progresses that agenda.

NEHTA's submission addresses the following areas:

- eHealth uptake and use; and
- how the Bill addresses barriers to adoption and use.

This submission follows earlier detailed input provided to the Legislation Discussion Paper in June 2015.

Uptake and use

Use of eHealth to support healthcare delivery is expanding every day. During July 2015, there were 13.4 million transactions on the Healthcare Identifiers Service (HI Service). This service is the foundation of all eHealth transactions, enabling accurate identification of healthcare recipients and healthcare providers. It also underpins the PCEHR System and secure electronic communication between healthcare providers. Healthcare organisations are increasingly seeking opportunities to utilise healthcare identifiers in the management of patient records and healthcare provider directories.

As at 22 October 2015, there are 2,427,704 consumers registered with the national eHealth record system. A large proportion of these are newborns and children. This means that from the first stages of life, these children can have an electronic summary of their health information readily available to their healthcare providers, and their parents and carers.

As at 22 October 2015, a total of 7,970 healthcare organisations are registered with the national eHealth record system. This includes 452 public hospitals and health centres, which have uploaded 218,915 discharge summaries, and 5,182 general practices. There are 57,810 shared health summaries and 1.77 million prescription records accessible in the system, which have primarily been contributed by general practices.

This level of uptake is an indicator of willingness by providers to engage with eHealth, even if comfort and capability to use the system is still developing. Together with continual improvements to usability and registration processes, the changes proposed in the eHealth Bill will further facilitate use of eHealth and the PCEHR.

Support for the Bill

The *eHealth Bill* provides legislative support to the recommendations of the Healthcare Identifiers Act and Service Review (May 2013) and the PCEHR (Royle) Review (Dec 2013). These reviews both identified opportunities to improve the functioning and governance of these systems, to ultimately enhance uptake and use of eHealth in Australia. NEHTA is supportive of the recommendations of these Reviews.

Making these changes will send a strong signal of ongoing support for eHealth in Australia and generate optimal value from investment by Australian governments (including through NEHTA), as well as other participants in the sector.

We note that the subordinate Regulations and Rules will stipulate arrangements for opt-out participation trials, access controls, and detailed provider requirements, and may have a practical impact on eHealth systems and users (including behaviour of connecting software).

Usability and participation

The majority of provisions in the *eHealth Bill* are to enhance the utility and uptake of the Healthcare Identifiers Service and national eHealth record system, in accordance with the findings of the Reviews into each of those systems.

The proposals for the *Healthcare Identifiers Act* will bring about the following key changes:

- clarity on the circumstances in which healthcare identifiers (for healthcare recipients, individual providers and healthcare organisations) may be used, and for what purposes. Healthcare identifiers for healthcare organisations will no longer be treated with the same level of privacy protection as the other identifiers relating to individuals (IHIs and HPI-Is). All healthcare provider organisations will be listed in the Healthcare Provider Directory, removing the need for consent to do so.

This change is in response to some issues in practical implementation around the use of healthcare identifiers for healthcare provider organisations (HPI-Os). This change will enable more flexibility in the use of these identifiers to support secure messaging, and effective support and communication with registered organisations.

- Allow the use of healthcare identifiers by ageing and aged care, including the operator of the Aged Care Gateway, to support access to electronic information through services they operate. The Aged Care Gateway will link a person's information using an Individual Healthcare Identifier (IHI).

With regard to the PCEHR Act changes, we note the following key provisions:

- Clarifying copyright and intellectual property provisions;
- Removing the need for providers to enter into a Participation Agreement as part of their registration. The obligations currently captured by Participation Agreement will instead be embedded in the PCEHR Act and Rules.

NEHTA supports this change, made in response to feedback that the registration process was burdensome;

- NEHTA recommends that changes to require registered healthcare provider organisation to notify the Office of the Australian Information Commissioner (OAIC), be accompanied by suitably detailed guidance on what circumstances would bring about this requirement.

NEHTA has fielded a number of queries about these matters and welcomes the provisions in the Bill to clarify or remedy them. Combined with ongoing efforts to improve the usability of the system, these measures will likely improve provider engagement and use of the system.

The eHealth Bill also sets out that the Minister may make Rules about consumer participation trials. NEHTA supports trialling of alternate participation models to improve use of the system.

Balancing privacy with high quality care

For the national eHealth record system to work effectively, it must have the confidence of both providers and consumers. Government has an obligation to adhere to privacy requirements and also to provide the best available healthcare.

The policy and technical design of the national eHealth record system has been crafted to balance privacy and security, with the needs of clinical users so that the healthcare benefits of information sharing can be realised.

The eHealth Bill proposes to retain all the existing consumer access controls in the national eHealth record system, which NEHTA supports. These controls were designed to allow access to information in accordance with the wishes of the healthcare recipient, and consumers are prompted to discuss the removal of any clinical information with their healthcare provider.

At 23 September 2015, 0.15% of consumers have elected to restrict access to clinical documents in their records using an access code. This is consistent with the levels of document based access control seen in other implementations internationally. Importantly, consumer confidence in the system is buoyed by the ability to manage access in this way, despite very few consumers using the functionality in practice.

Simplifying participation requirements and clarifying the authorised uses of healthcare identifiers will go far to improving the registration and participation process for providers. In addition to this, NEHTA and the PCEHR System Operator are working with the sector to continually improve the usability of connecting software.

Appropriate settings to protect against unauthorised access to personal information must be in place, but they must also be clearly communicated. This is particularly the case in an opt-out consumer participation scenario. NEHTA supports provider obligations to ensure appropriate security mechanisms are in place at the point of access (such as a GP desktop, pharmacy or hospital workstation), and are embedded into organisation- wide security and access procedures. In many cases, these obligations are consistent with those under privacy law and professional standards (such as a RACGP Computer and Information Security Standards).

The use of Healthcare Identifiers and the national eHealth record system can substantially improve data accuracy and quality, ensuring that the right information is associated with the right person, and can be accessed at the right time. Electronic identification and authentication of users who access patient records is an important feature of the system and improves on paper- based processes. Use of eHealth in this way has benefits both for clinical outcomes, as well as privacy.

The objectives of eHealth to improve healthcare outcomes are supported across the community. A shift to an opt-out consumer participation model continues to be advocated by consumers and providers alike. NEHTA believes the current settings for provider access

appropriately balances privacy and clinical outcomes, and if communicated effectively, will encourage active use of the system under an opt-out model.

Governance

The *eHealth Bill* allows for the Australian Commission for Electronic Health (ACEH) to be established (in the *PCEHR Regulations*), as recommended by the PCEHR (Royle) Review. NEHTA welcomes the Establishment of ACEH to continue the work of NEHTA and the PCEHR System Operator.

NEHTA stands ready to provide additional clarification or advice on the practical operation, challenges and opportunities in eHealth, if required by the Committee.

Yours sincerely,

Peter Fleming

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Dr Steve Hambleton

Chair
National eHealth Transition Authority