AACP

AUSTRALIAN ASSOCIATION
OF CONSULTANT PHYSICIANS

Submission

to the

Senate Community Affairs Committee

on the

Healthcare Identifiers Bill 2010 and Healthcare Identifiers (Consequential Amendments) Bill 2010

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Summary

In its consideration of the *Healthcare Identifiers Bill 2010* the AACP urges the Committee to ensure that:

(i) patient privacy is not sacrificed for the purposes of data collection, research activities or health system management;

(ii) the use of health care identifiers is restricted to that required for the delivery of medical and health care;

(iii) there is adequate opportunity provided in the legislation for oversight of any proposed future expansion of the personal information required to validate health care identifiers;

(iv) there is adequate opportunity provided in the legislation for oversight of any proposed future expansion of the uses to which such identifiers may be put; and

(v) resources are made available to all medical providers to support upgrading of information systems and particularly to address the necessary additional privacy safeguards associated with both the expansion of the broader e-health agenda and the introduction of personal health care identifiers.

Background

On 24 February 2010 the Senate referred the Healthcare Identifiers Bill 2010 for "inquiry and report". The matters on which the Senate Community Affairs Committee has sought submissions by 5 March 2010 (and is due to report on 15 March 2010) are:

- Privacy safeguards in the Bill
- Operation of the Healthcare Identifier Service, including access to the Identifier
- Relationship to national e-health agenda and electronic health records.

This Bill provides for all Medicare cardholders and health care providers to be assigned unique identifiers.

Comments

In the brief time provided to review the documentation, the following matters have been identified as being of concern:

(i) the purpose of the Act states "... there will also be benefits associated with the use of healthcare identifiers for other health-related purposes including research and management of health services". Where research and management would have once been considered peripheral to the intended use of Medicare data, namely supporting the payment of Medicare benefits to the Australian community, it may be inferred that the health care identifier and the data associated with individual identifiers may now be specifically targeted for such use.

Further, subclause 24(i) that sets out "permitted uses and disclosures of healthcare identifiers by healthcare providers" allows use and disclosure in a wide range of circumstances well beyond that which would be considered necessary for the treatment of a patient. These include:

- "management, funding, monitoring or evaluation of healthcare" – in what circumstances would this require disclosure of an individual's unique identifier?
- "provision of indemnity cover for the healthcare provider" – in what circumstances would this require disclosure of an individual's unique identifier?
- "research which has been approved by a human research ethics committee" – the unique identifier would allow linking of information about an individual that may be wholly unrelated to the research question.

(ii) it is unclear why health care providers require such an identifier and further, why the following information is required "... includes (but is not limited to) name, address, date of birth, sex, healthcare provider type, registration status".

Is this identifier to replace the existing provider numbers for medical practitioners? Note that COAG has agreed that the identifier assigned to individual health care providers for registration purposes should be the same number assigned to health care providers for the purposes of communication and management of health information – page 11 Explanatory Memorandum. It is not clear whether medical practitioners will now have two identifying numbers or whether, under the national registration arrangements, the proposed "unique identifier" will be the only "provider number". In any event, it is not clear how the requirement for the specified information under this Bill links with the information that is required by the various medical boards.

It is also noted that 9(c) states:
The types of healthcare identifiers include:

(a) an identifier that is assigned to a healthcare provider who is an individual who:
  (i) has provided, provides, or is to provide, healthcare; or
  (ii) is registered by a registration authority as a member of a particular health profession; and
(b) an identifier that is assigned to a healthcare provider who has conducted, conducts, or will conduct, an enterprise that provides healthcare (including healthcare provided free of charge); and
(c) an identifier that is assigned to a healthcare recipient.

Note: A healthcare provider who is an individual and who is covered by both paragraphs of the definition of healthcare provider in section 5 (for example, a sole practitioner) may be assigned:

(a) a healthcare identifier of the type mentioned in paragraph (3)(a); and
(b) a different healthcare identifier of the type mentioned in paragraph (3)(b).

From the above, it appears that a health care provider may have more than one "healthcare identifier", with all the attendant potential confusion and/or added associated administration.

(iii) It is noted that "Clause 39 Regulations" allows for regulations to be made in relation to a number of areas, including prescription of additional identifying information, prescription of service operators and national registration authorities – as regulations, such changes are not subject to adequate Parliamentary scrutiny.

(iv) There is also a major concern about privacy. The recent disclosure about privacy breaches in Medicare whereby there was inappropriate access to records in a high percentage of cases significantly reduces confidence in the ability of Medicare to maintain appropriate privacy under a new system that is intended to greatly enhance the systematic linking and availability of information.

In summary, there are concerns about the potential for future expansion of the information required to be collected in relation to the proposed "health care identifiers", the proposed broad categories for allowable use and the potential for greatly expanded uses of the identifiers. There would appear to be little opportunity for adequate Parliamentary oversight because these changes may occur under regulation.

Unless these issues, and especially those relating to privacy and access to personal data, are adequately addressed, the Australian community and the medical profession will be justified in current concerns about privacy under these changed arrangements, both now and in the future where there is potential for significant expansion of the personal information held and the use that may be made of the personal identifiers.

Relationship to national e-health agenda

While there has been significant support provided to some segments of the health industry – notably general practice – there has been no assistance provided to other medical providers, such as consultant physicians and paediatricians, who have to address the same issues in meeting the infrastructure requirements of the proposed shift to e-health. The health identifiers privacy issues reinforce the need for additional resources to be made available to providers.

Clearly there will be a need for significantly upgraded data management facilities and greatly enhanced security provision to ensure patient privacy is appropriately assured under the proposed new health care identifier arrangements. This will require increased expenditure both at the outset and in the ongoing maintenance of information technology throughout the health sector. Currently there is inadequate support for these changes and this needs to be addressed as part of the broader "e-health agenda".