

Chapter 1

Introduction

The inquiry and its conduct

1.1 On 24 March 2011 the Senate, on the recommendation of the Selection of Bills Committee (Report No. 3 of 2011), referred the provisions of the National Health Reform Amendment (National Health Performance Authority) Bill 2011 (the Bill) to the Community Affairs Legislation Committee for inquiry and report by 9 June 2011. The Selection of Bills Committee referred the Bill for inquiry because of concerns about the governance, national standards and consistency and powers of authority in the Bill. These concerns, among others, were also noted by the Senate Standing Committee for the Scrutiny of Bills.

1.2 The Committee advertised the inquiry in *The Australian* newspaper on 13 April 2011, 27 April 2011 and 25 May 2011 and invited submissions by 29 April 2011. The Committee also wrote to a number of organisations and individuals inviting their comments on the Bill. Details of the inquiry, the Bill, and associated documents were placed on the Committee's website.

1.3 The Committee received 18 submissions relating to the Bill and these are listed at Appendix 1. The submissions can be accessed through the Committee's website at http://www.aph.gov.au/senate/committee/clac_ctte/nhpa/index.htm.

1.4 The Committee thanks the organisations and individuals who contributed to the inquiry. A public hearing for the inquiry was held in Canberra on 17 May 2011. Following receipt of submissions, the Committee wrote to the Department of Health and Ageing (the Department) seeking clarification on a number of matters identified by submitters. The answers provided by the Department can also be accessed through the Committee's website.

1.5 On 3 June 2011, the Committee received from the Department of Health and Ageing, some proposed amendments to the Bill, accompanied by a draft supplementary Explanatory Memorandum. These addressed some of the Committee's and submitters' concerns, and assisted the Committee in reaching its view that the Bill should be passed.

Purpose of the Bill

1.6 The amendments proposed by the Bill would establish a new statutory authority, the National Health Performance Authority (the Authority).

1.7 The Government first committed to establishing the National Health Performance Authority at the April 2010 Council of Australian Governments (COAG)

meeting.¹ The commitment to establish the Authority was reconfirmed at the 13 February 2011 COAG meeting, details of which are summarised in the Heads of Agreement – National Health Reform.² Clause 68 of the Heads of Agreement – National Health Reform provides that the Heads of Agreement will lapse after all parties sign the National Health Reform Agreement. As at the time of writing this report, that Agreement was yet to be reached.

Overview of the Bill

1.8 The amendments proposed by the Bill have implications for the National Health and Hospitals Network Bill 2010 passed by the House (with Senate amendments) on 21 March; the National Health and Hospitals Network Bill establishes the Australian Commission on Safety and Quality of Health Care (ACSQHC) as a permanent agency.

1.9 If enacted, the amendments proposed by the Bill will amend the National Health and Hospitals Network Bill 2010 by changing its title to the *National Health Reform Act 2011*. It will divide the Act into several chapters and add additional chapters.

1.10 It will make a number of technical amendments to existing chapters, including the preliminary chapter and the chapter on the ACSQHC. It will also introduce two new chapters: Chapter 3, which concerns the establishment of the National Health Performance Authority and Chapter 4, which covers miscellaneous subjects such as privacy and confidentiality, relations between this Act and state laws, and regulation making power.

1.11 At the national level, there are currently a number of different performance monitoring mechanisms operating including:

- The COAG Reform Council (CRC);
- The Australian Institute of Health and Welfare (AIHW);
- The Australian Bureau of Statistics; and
- The Australian Commission on Safety and Quality in Health Care (ACSQHC)

While the Government's decision to establish the National Health Performance Authority is part of a broader commitment to increase sustainability, transparency and efficiency of Australia's health system, there is little publicly available consistent and

1 Explanatory Memorandum, National Health Reform Amendment (National Health Performance Authority) Bill 2011, p.2. Note: in the original National Health and Hospitals Agreement, the Authority was called the National Performance Authority. In this Bill, its title has been amended to the National Health Performance Authority.

2 http://www.coag.gov.au/coag_meeting_outcomes/2011-02-13/docs/communique_attachment_20110213.pdf.

comparable information on providers' performance at this level.³ In addition, there is no information about the establishment of the Independent Hospital Pricing Authority (IHPA) and how the Authority and the IHPA will work together.⁴

1.12 The National Health Performance Authority is set up through the proposed insertion of Chapter 3 in the Bill.

1.13 The main function of the Authority is to monitor; and report on, the performance of the following:

- (a) Local Hospital Networks (LHNs);
- (b) Public hospitals;
- (c) Private hospitals;
- (d) Primary health care organisations; and
- (e) Other bodies or organisations that provide health care services.

3 N Roxon, Second reading speech: national Health Reform Amendment (National Health Performance Authority) Bill 2011, 3 March 2011 p.219, viewed 18 May 2011, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F2011-03-03%2F0012%22>.

4 Australian Government, 'A National Health and Hospitals Network for Australia's future: delivering better health and better hospitals', Canberra 2010.