



Cancer Australia Bill 2006

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Social Policy Section

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Cancer Australia Bill 2006

Date introduced: 16 February 2006

House: House of Representatives

Portfolio: Health and Ageing

Commencement: Royal Assent

Purpose

The purpose of the Bill is to establish Cancer Australia as a statutory agency within the Health and Ageing Portfolio.

Background

Basis of policy commitment

The government announced its intention to establish Cancer Australia in 2004 as part of its \$137.1 million *Strengthening Cancer Care* election policy.¹ The purpose of Cancer Australia, according to the government's election policy, would be to improve coordination within the cancer sector:

Over the years a plethora of organisations, services and interest groups have arisen in the cancer field. All of them have visions and messages. All of them have strong and valid views on how best scarce cancer care resources should be committed. These disparate voices need to be brought together.²

In particular, according to the election policy, a body such as Cancer Australia was needed to ensure that 'the entire spectrum of cancer care services throughout Australia are evidence based and consumer focused'.³

Accordingly, the functions of Cancer Australia will be as follows:

- to provide national leadership in cancer control
- to guide scientific improvements to cancer prevention, treatment and care
- to coordinate and liaise between the wide range of groups and health care providers with an interest in cancer
- to make recommendations to the Commonwealth Government about cancer policy and priorities
- to oversee a dedicated budget for research into cancer

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- to assist with the implementation of Commonwealth Government policies and programs in cancer control
- to provide financial assistance, out of money appropriated by the Parliament, for research and for the implementation of Commonwealth government policies and programs in cancer control
- any other functions as directed by the Minister.⁴

Cancer Australia will be comprised of a Chief Executive Officer (CEO), Advisory Council, and support staff. Former Australian Medical Association (AMA) president Dr Bill Glasson has already been appointed as Chair of the Advisory Council.⁵

In addition to the establishment of Cancer Australia to improve coordination of the 'national cancer effort', the *Strengthening Cancer Care* election policy included a series of other initiatives designed to:

- support Australians living with cancer, and provide better professional support for cancer care workers
- enhance screening and prevention services to improve early detection and treatment, in particular for bowel, skin and cervical cancer
- improve research into cancer and cancer care in Australia.⁶

Cancer Australia will be involved in overseeing the implementation of many of the initiatives contained in the *Strengthening Cancer Care* package. Health Minister Tony Abbott has said that an initial priority for Cancer Australia will be an 'audit of the national cancer effort'.⁷

Position of significant interest groups/press commentary

Many groups within the health and medical sector have welcomed the establishment of Cancer Australia, including the National Breast Cancer Centre,⁸ the Clinical Oncology Society of Australia,⁹ and the Cancer Nurses Society of Australia.¹⁰ The Cancer Council has described the establishment of Cancer Australia as 'an important advance in the battle against Australia's biggest killer', which has 'the potential to make a significant impact on controlling cancer in Australia'.¹¹ The Royal Australian College of General Practitioners has welcomed the establishment of Cancer Australia but said that the new body must work hard to 'meet the challenge of cancer's impact on disadvantaged Australians', and in particular barriers to cancer screening among disadvantaged groups'.¹²

The National Cancer Control Initiative

While many cancer groups and groups within the health and medical sector more generally have welcomed the establishment of Cancer Australia, there has been uncertainty over the future of the existing expert cancer advisory body, the National Cancer Control Initiative

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(NCCI), ever since the government's initial announcement of the establishment of Cancer Australia in 2004: the government has not at any stage made clear what will happen to the NCCI once Cancer Australia is established.

The NCCI was established in 1997 by former Health Minister Michael Wooldridge to advise the Commonwealth government on cancer control. Since 1997 the NCCI has been engaged in a range of important work on cancer diagnosis, prevention and care; on devising a national cancer control strategy; on developing cancer information and research infrastructure (such as developing methods to strengthen cancer clinical trial research); and on disseminating information about cancer as well as bringing together experts in the cancer sector through workshops and other forums.¹³ The NCCI's work has informed the development of government cancer policy (for example, much of the *Strengthening Cancer Care* policy was based on a report prepared by the NCCI).¹⁴

Following the announcement of the establishment of Cancer Australia, many stakeholders, including the NCCI itself, assumed that the NCCI would be subsumed into Cancer Australia, given the similarities between the advisory work of the NCCI to date, and the roles and functions of Cancer Australia. Indeed, the NCCI has worked actively to assist in setting up Cancer Australia.¹⁵ However, because of the uncertainty over the NCCI's future in the Cancer Australia structure (as well as uncertainty over the NCCI's short term funding), the NCCI announced last year that it would cease its current operations on 31 May 2006.¹⁶ There do not appear to be any arrangements in place at this stage to ensure continuity between the work of the NCCI and Cancer Australia once it is established.

ALP/Australian Democrat/Greens/Family First policy position/commitments

Labor Health spokeswoman Julia Gillard has said that the ALP supports the move towards better coordination of cancer programs, but has been strongly critical of the delay in establishing Cancer Australia since the government's intention to do so was first announced during the federal election campaign in 2004. In particular, Labor has criticised the government for the uncertainty created for existing organisations such as the NCCI by the delay in establishing Cancer Australia.¹⁷

The Australian Democrats, the Australian Greens and Family First do not have publicly stated positions on the establishment of Cancer Australia.

Issues regarding operations of Cancer Australia

As noted above, the establishment of Cancer Australia appears to be widely supported by cancer groups and the health and medical community, notwithstanding the controversy over the future of the NCCI in the Cancer Australia structure. However, given that Cancer Australia will have a role in overseeing funding for research and providing financial assistance for cancer programs (and thus will be an influential body in determining how cancer funding gets allocated), it is possible that some of its decisions will be subject to

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criticism by stakeholders. Accordingly, there may be an argument for strengthening the proposed provisions in the Bill which relate to the transparency and accountability of Cancer Australia's operations.

For example, under clause 7(1), Cancer Australia will be required to perform any functions as directed by the Minister in writing. Under 7(2), a direction made by the Minister in writing to this effect will not be a legislative instrument. In the interests of greater transparency, there may be a case for making such directions legislative instruments. Indeed, this would be consistent with the provisions contained in clause 12(1), under which the Minister may give directions to the Cancer Australia CEO as to the performance of Cancer Australia's functions. Any such directions given under proposed section 12(1) *would* be legislative instruments.

While the Bill contains a series of provisions relating to the process for, and terms and conditions of, appointment to the Cancer Australia Advisory Council, it is not clear how Advisory Council members will be chosen. Arguably, in order to maintain the confidence of the cancer sector, the Advisory Council will need to be comprised of representatives from key stakeholder groups within the sector. Accordingly, there may be an argument for mandating representation from certain groups (or certain kinds of groups, at least), in the legislation.

It is also unclear whether advice provided to the CEO by the Advisory Council will be kept confidential. Again, in the interests of transparency there may be an argument for including some provision within the legislation mandating public release of Advisory Council reports.

Financial implications

The government has allocated \$13.7 million over five years to the establishment of Cancer Australia, as shown in the following table.¹⁸

2004-05	2005-06 (\$m)	2006-07 (\$m)	2007-08 (\$m)	2008-09 (\$m)	Total (\$m)
1.0	4.5	3.0	2.6	2.9	\$13.7

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Main provisions

The main provisions of the Cancer Australia Bill are as follows.

Clauses 1 to 5 are the Bill's preliminaries.

Clause 6 establishes Cancer Australia and **clause 7** sets out Cancer Australia's functions (as described above under 'Background'). Directives provided by the Minister under proposed section 7(1)(h) will not be legislative instruments.

Clauses 8 and 9 relate to staff of, and consultants engaged, by Cancer Australia.

Clause 10 establishes the position of CEO of Cancer Australia, **clauses 11 to 13** set out the responsibilities and powers of delegation of the CEO; and **clauses 14 to 23** set out the terms and conditions under which the CEO will be appointed.

Clause 24 establishes the Cancer Australia Advisory Council, **clauses 25 and 26** set out the Advisory Council's membership (the Chair plus up to 12 other members) and functions (to give advice to the CEO about the performance of Cancer Australia's functions); and **clauses 27 to 36** set out the process for appointment to the Advisory Council and the terms and conditions of appointments to the Advisory Council. Members of the Advisory Council will be appointed by the Minister by written instrument, and appointments will be on a part-time basis.

Clause 37 sets out the reporting requirements of Cancer Australia, and **clause 38** allows for regulations to be made under the Cancer Australia Act.

Concluding comments

The establishment of Cancer Australia is designed to improve coordination of cancer policy in Australia. The establishment of Cancer Australia appears to be widely supported by cancer groups and other groups within the health and medical sector, though as noted above there has been some controversy over the future of the existing advisory body, the NCCI, within the Cancer Australia structure.

The establishment of Cancer Australia is also supported by the Opposition and minor parties represented in the Senate. Accordingly, the Cancer Australia Bill 2006 is likely to be uncontroversial.

However, given that decisions made by Cancer Australia in the future are likely to be closely scrutinised by various stakeholders, particularly those regarding funding for cancer programs and research, there may be a case for strengthening some of the Bill's provisions relating to the transparency of Cancer Australia's operations.

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Endnotes

1. Liberal Party of Australia, *Strengthening Cancer Care* (election policy), 4 October 2004. See: <http://parlinfoweb.parl.net/parlinfo/Repository1/Library/partypol/0E0E60.pdf>.
2. *ibid.*, p. 8.
3. *ibid.*, p. 9.
4. Cancer Australia Bill 2006, clause 7.
5. Tony Abbott, Minister for Health and Ageing, 'National cancer agency to be established', *media release*, 28 November 2005.
6. *Strengthening Cancer Care*, p. 2.
7. Abbott, 'National cancer agency to be established', *op. cit.*
8. National Breast Cancer Centre, *Breastfax—A News Bulletin of the National Breast Cancer Centre*, Issue 30, December 2005. See http://www.nbcc.org.au/documents/BreastFAX_Dec05.pdf (accessed 26 February 2006).
9. Clinical Oncology Society of Australia, 'COSA welcomes Cancer Australia announcement', *media release*, 28 November 2005. See: http://www.cosa.org.au/documents/28NOV05_COSA_welcomes_Cancer_Australia.pdf (accessed February 26 2006).
10. Cancer Nurses Society of Australia, *CNSA News*, vol. 10, issue 2, May 2005. See: http://www.cnsa.org.au/upload/document/document_20055238514949677.pdf (accessed February 26 2006).
11. The Cancer Council Australia, 'Cancer Council welcomes announcement of Cancer Australia', *media release*, 28 November 2005. See: http://www.cancer.org.au/documents/28NOV05_Announcement_Cancer_Australia.pdf (accessed February 26 2006).
12. Royal Australian College of General Practitioners, 'New national cancer agency must confront health inequalities', *media release*, 30 November. See: <http://www.racgp.org.au/document.asp?id=19003> (accessed 26 February 2006).
13. National Cancer Control Initiative (NCCI), *NCCI Newsletter*, August 2005.
14. *ibid.*
15. National Cancer Control Initiative (NCCI), *NCCI Newsletter*, September/October 2005.
16. *ibid.*
17. Julia Gillard MP, 'Abbott fails to deliver *another* election promise', *media release*, 30 August 2005. See also Julia Gillard MP, 'Pink Ribbon Day cloud over cancer commitments', *media release*, 24 October 2005.
18. 2004–05 figure from Liberal Party of Australia, *Strengthening Cancer Care*, *op. cit.*; 2005–06 to 2008–09 figures from Explanatory Memorandum, p. 1.

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