

Senate Community Affairs Committee

ANSWERS TO ESTIMATES QUESTIONS ON NOTICE

HEALTH PORTFOLIO

Budget Estimates 2017 - 2018, 29 & 30 May 2017

Ref No: SQ17-000920

OUTCOME: 1 - Health System Policy, Design and Innovation

Topic: My Health Record

Type of Question: Written Question on Notice

Senator: Griff Stirling

Question:

What systems are in place to prevent or penalise unauthorised access?

- a) How is unauthorised access detected? Is it automatically monitored and detected by the department, or must it be reported by the consumer or their primary healthcare provider?
- b) What recourse will there be for consumers who have incorrect info added to their account, or experience unauthorised access or sharing of their information?
- c) Is the department aware of any attempts, to date, to hack into My Health Records?

Answer:

A number of measures are in place to provide assurances around access to the My Health Record System to prevent and deter unauthorised accesses. In the first instance of prevention, there are a number of privacy settings which enable individual users of the My Health Record system to control who has access to their health information. Individual users of the My Health Record system can:

- set a record access code which they provide to selected healthcare provider organisations to control access to their record, and prevent access for other healthcare provider organisations;
- restrict access to individual documents, by marking them as ‘limited access’ documents, and specifying which healthcare provider organisations can view these items;
- nominate representatives to view and help manage their record (such as a carer or next of kin); and
- review who has accessed their record.

These user privacy controls align with the *My Health Records Act 2012*, which imposes a range of obligations on participants to ensure their interactions with the My Health Record system meet particular privacy and security standards and support investigation and complaint resolution activities. The misuse of information in the My Health Record system is subject to penalties under the *My Health Records Act 2012*.

- a) The My Health Record cyber security operations team monitors My Health Record activities and looks for instances of unauthorised access. This involves identifying and investigating unusual events such as:
- overseas access by consumers and healthcare providers;
 - multiple logins from the same computer;
 - multiple logins within a short period of time;
 - logins to the same record from multiple computers at the same time;
 - high transaction rates for a given healthcare provider;
 - certain instances of after business hours access; and
 - all instances of emergency access.
- b) There are a number of options available to an individual if they believe information is inaccurate, out-of-date or incomplete:
- a consumer can ask the healthcare provider that uploaded the information to correct or complete it;
 - the consumer can remove the document from their record so that it is not visible;
 - if the consumer does not feel comfortable approaching the healthcare provider directly, they can call the My Health Record helpline. The System Operator will then launch an investigation, and if it is found that the information is incorrect, the System Operator can request the healthcare provider to correct the information and if the healthcare provider refuses to do so the System Operator can direct the healthcare provider to attach a note to the document regarding the consumer's request to change the information;
 - at the consumers request, the System Operator can remove a document from the record so that it is not visible; and
 - if a consumer is not satisfied with the outcome of the investigation, the consumer can make a complaint to the Office of the Australian Information Commissioner (OAIC).

Similarly, if a consumer suspects that the information in their My Health Record may have been mishandled, they can call the My Health Record helpline or contact the healthcare provider involved. If the consumer is not happy with the response, they can contact the OAIC.

The misuse of information in the My Health Record system is subject to penalties under the *My Health Records Act 2012*. Where it is found that a person or entity recklessly or knowingly collected, used or disclosed health information in a My Health Record in contravention of the Act, they will be subject to civil or criminal penalties. The serious penalties relating to the misuse of information do not apply to accidental misuse. If a person accidentally collects uses or discloses information, they are not liable for civil or criminal penalty, although there may still be an interference with privacy and the Australian Information Commissioner may still investigate.

- c) The My Health Record National Infrastructure Operator has not detected any successful attempts to hack the My Health Record system. In addition, no reports of attempted hacking of the My Health Record system have been received from other government agencies (such as the Australian Signals Directorate).