

ANSWERS TO ESTIMATES QUESTIONS ON NOTICE

HEALTH AND AGEING PORTFOLIO

Supplementary Budget Estimates 2011-2012, 19 October 2011

Question: E11-479

OUTCOME 10: Health System Capacity and Quality

Topic: EHEALTH - LEGISLATION AND SECURITY

Written Question on Notice

Senator Boyce asked:

Doesn't the draft PCEHR legislation reflect:

- An acknowledgement that security of the PCEHR is a primary issue, that
- the government knows that it can't guarantee its security because NEHTA's architecture thus far has not come up with a secure method,
- so the only alternative is make health organisations responsible and legally and financially liable for security breaches?

Answer:

The importance of ensuring the security of consumer information is recognised in the draft personally controlled electronic health record (PCEHR) system legislation with obligations imposed on participants to protect the integrity of the PCEHR system. This reflects the strong views expressed by stakeholders during public consultation on the PCEHR system design and the legislation.

The PCEHR system security is being developed in line with international and Australian standards and Australian Government requirements as outlined in the Protective Security Policy Framework and the Information Security Manual.

The PCEHR legislation does not transfer responsibility or liability for security to healthcare providers. The system operator and repositories are required to protect information that they hold as part of the system and to ensure that information is accessed appropriately. Individuals and healthcare providers who access the PCEHR also have obligations to access the PCEHR system only for providing healthcare or other purposes permitted by the legislation.

Civil and or criminal penalties may arise where there has been a breach. For an individual or a healthcare provider this will only arise where the misuse of the system has been deliberate or intentional and not where there has been an honest mistake.

A healthcare organisation will have a responsibility for operating computer systems in a manner that preserves the integrity of the PCEHR system.