



**ashm**  
Australasian Society for HIV Medicine

Community Affairs Senate Committee

26 May 2009

Re: Privacy Assessment of Compliance Audit on Medicare Benefits

Dear Ingrid Zappe

I would like to add additional comments to our previous submission on this legislation in response to the privacy assessment.

The privacy assessment does not address our key issue of concern around confidentiality. Patients supply information to doctors about sexual health and risk of HIV on the basis that it will only be disclosed to third parties without their express permission in a few very exceptional circumstances including criminal legal action, serious public health issues and coroner's court. The privacy assessment seems to suggest in clause 113 that the disclosure of information will impact on the practitioner not the patient. However we argue that the disclosure of information about a patient could impact on that patient if there is a breakdown in the privacy safeguards at Medicare Australia. While Medicare aims to have high standards of privacy, the leaks that occur regularly from government bureaucracies either into the media or just into popular gossip mean that patients may not trust those expressions of high standards.

We also argue that the consequences of unlawful disclosure by a non-professional member of Medicare Australia might be limited to employment sanctions but for the patient the consequences could be devastating. Currently if a doctor discloses that kind of information without permission she or he can be struck off from medical practice, which is a powerful incentive to the preservation of confidentiality.

The privacy assessment also suggests that patients could be warned that information that may be disclosed to Medicare in the future either through a media campaign or by notices in practices. Overall we agree that this openness is a good idea because it will expose the shortcomings of this legislation to public gaze very effectively. However we are concerned that the trust of patients in the confidentiality of the consultation will be damaged seriously while we all wait for the legislation to be repealed.

In summary the privacy assessment and recommendations do not satisfy our genuine concerns about the impact of the proposed legislation on the trust between a patient and a doctor in a consultation about confidentiality concerning intimate matters of sexuality and sexual health/HIV. We ask that Medicare Australia consider some alternative approaches including peer-review which would help protect both the integrity of the funding and delivery of healthcare in Australia through the MBS.

I am happy to discuss our concerns if required

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President ASHM

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