



9 April 2010

Draft Regulations for the Healthcare Identifiers Service
eHealth Branch
Primary and Ambulatory Care Division (MDP 1003)
Department of Health and Ageing
GPO Box 9848
Canberra ACT 2600

Dear Sir/Madam

Proposed Regulations for the Healthcare Identifiers Service

The ANF has been consistent in its support for moves to introduce electronic systems for health information management which will mean more timely access to information for nurses, midwives, other health professionals and consumers of health and aged care.

With a membership of over 175,000 nurses and midwives, the ANF is the largest professional and industrial organisation in Australia for nurses and midwives, with Branches in each State and Territory of Australia. Our members are employed in a wide range of enterprises in urban, rural and remote locations in both the public and private health and aged care sectors. As the union for the largest cohort of health professionals within the health and aged care workforce, the ANF considers that nurses and midwives will play a central role in the use of electronic systems developed to manage healthcare records, including the use of healthcare identifiers. Given the geographical spread of where nurses and midwives practice, access to electronic health records (where the electronic infrastructure is available) will greatly assist in the delivery of quality, safe care.

The ANF supports the stated purpose of the *Healthcare Identifiers Bill 2010* as providing a way of ensuring that a person who provides or receives healthcare is correctly matched to health information that is created when healthcare is provided...by assigning a unique identifying number to each healthcare provider and healthcare recipient.

The ANF is fully supportive of the development of unique healthcare identifiers, acknowledging that this is the first building block needed to be established before the implementation of a national e-health system, which will incorporate an individual electronic healthcare record.

The ANF argued in our submission on the exposure draft *Healthcare Identifiers Bill 2010* for the establishment of regulatory arrangements to ensure appropriate safeguards for patient health information, as a critical adjunct to the implementation of legislation for unique healthcare identifiers and subsequent individual electronic healthcare records. While the ANF finds clarification on some points of the Bill in the draft Regulations, it is disappointing that there remains gaps in information.

It is noted from the Consultation paper that regulations have not been made in all areas identified in the Bill where regulations can be made. The ANF urges the Government to give serious consideration to issues raised in submissions to this consultation process regarding the need for additions to the regulations.

Preliminary - Definitions

The ANF considers that the definition of *classes of healthcare providers – individuals* accommodates some of our concerns in that groups such as Speech Pathologists and Audiologists, for whom it is entirely appropriate to be considered for the assigning of a individual provider identifiers, will be included under the category *members of a professional association*. The description under this category however, could apply to some health or aged care workers who may or may not need access to patient/client/resident records in their day to day practice, but are members of a professional organisation. The ANF notes that “a list of professional healthcare associations that meet the prescribed criteria will be developed and maintained for the HI Service.” The ANF requests input into the development of that list in the interests of patient/client/resident safety.

The definition of *healthcare provider – organisations* still doesn't appear to apply to aged care facilities or be inclusive of anywhere that a health professional may be employed to provide health care - for example, a building site which employs an occupational health and safety nurse.

Assigning healthcare identifiers

As above, the ANF is concerned that the Regulations do not differentiate between individual healthcare providers who are currently unregulated and for whom it is appropriate to be accessing patient/client/resident records and those for whom it is inappropriate. While the ANF welcomes Section 9(v) which will allow for inclusion of health professionals such as Speech Pathologists and Audiologists, we request that there be clearer wording and direction as to which currently unregulated workers will be issued with a HPI-I.

Use and disclosure of identifying information for assignment of healthcare identifiers

The ANF has supported the inclusion of penalties in the instance of unauthorised use or disclosure of a healthcare identifier. However, given the harshness of the penalties, the ANF has previously requested that the Regulations include processes and procedures to ensure healthcare professionals have an appeal process that would be followed regarding allegations of breaches of the Act. This appeal process is not evident in the draft Regulations.

With respect to the question on transition period for enforcement of penalties relating to Regulation 11, the ANF understands the balancing act between ensuring appropriate security of data and the need for time for implementation of management practices. The suggested two year time frame seems reasonable, with appropriate monitoring to safeguard against unauthorised access.

Interaction with the Privacy Act 1988

It is difficult to say definitively whether or not the existing legislative provisions relating to personal privacy are adequate or if there need to be additional safeguards in either the *Healthcare Identifiers Bill 2010* or the Regulations. The ANF considers that the benefit to the public of having a system of healthcare identifiers and individual electronic healthcare records outweighs the privacy risks. However, this must not mean that privacy safeguards are foregone.

It is important that privacy principles be applied to each layer of development and operation for the unique healthcare identifiers. A plan for qualitative research to describe and evaluate the effect of the legislation on the protection of consumer privacy should be undertaken within 3 years of the introduction of the HI Service.

Oversight of the Role of the Ministerial Council

The ANF considers that there should be mechanisms built into the implementation for independent evaluation and critical review of all processes relating to the unique healthcare identifiers. We recognise the potential for 'function creep'. The ANF, therefore, seeks assurances that any broadening of the functions of the HI Service would only occur after an identified and obligatory process of rigorous impact analysis, key stakeholder and community participation in a public debate and stringent safeguards being applied to any additional functions that are introduced.

The Government will need to ensure that future plans incorporate a comprehensive communication strategy for health professionals and consumers of health and aged care services. The success of e-health capabilities throughout the health and aged care sectors will be dependent on the familiarity of health professionals with the electronic infrastructure. It will be imperative that nurses and midwives, as the largest professions in the health and aged care workforce, constitute a substantial component of the communication strategy for the implementation of healthcare identifiers and electronic healthcare records management.

The ANF has requested previously that either the Bill or the Regulations to the legislation clearly state that the Individual Healthcare Identifier will not be a requirement for accessing healthcare in Australia. A statement to this effect does not appear in either the Bill or the Regulations.

Should you require any additional information or wish to discuss this matter further please contact Elizabeth Foley, Federal Professional Officer, on (03) 9602 8500 or elizabethf@anf.org.au.

Yours faithfully,



Gerardine (Ged) Kearney
Federal Secretary

The industrial and professional organisation for nurses and midwives in Australia

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