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Mr. Peter Carver
Executive Director
Health Workforce Australia
NHWT
Level 12, 120 Spencer Street
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Dear Peter Carver

RE: THE NATIONAL REGISTRATION AND ACCREDITATION SCHEME

I am writing in my capacity as Chair of the Health Sub Committee of the Australian Privacy Foundation (APF).

Please accept my apologies for this late submission as to "The National Registration and Accreditation Scheme"

The APF lauds the Scheme overall yet we remain concerned about some aspects of the initiative. Our key concerns include the increased risk of medical identity theft, the publication of information that is irrelevant to practice concerns, the risk of public dependence on the register where updates are not contemporaneous, and the duplication of existing registers. The attached response to the scheme details our key concerns.

Yours faithfully

Dr. Juanita Fernando
Chair
Health Sub Committee
Australian Privacy Foundation

Contact Details for the APF and its Board Members are at:
http://www.privacy.org.au/About/Contacts.html

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APF RESPONSE TO THE NATIONAL REGISTRATION

AND

ACCREDITATION SCHEME

*(*http://www.nhwt.gov.au/natreg.asp*)*

The Australian Privacy Foundation (APF) generally supports the idea of a National Registration and Accreditation Scheme for the health professions. However, the proposed Scheme seems to duplicate several that already exist and also, fosters some concern for the safety and privacy of individuals listed on the new register. APF concerns with regard to respective proposals are outlined below.

1. **Proposal 3.2** requires several categories of information to be listed on a new register. Licenses to practice are already registered and numbered. What is the purpose in creating a new register of licenses instead of interconnecting information that already exists? The web page outlined in Proposal 4.6 would be a good vehicle for interconnecting federated licensing and accreditation information. The duplication of an existing service seems an inefficient way to manage the National Licensing and Accreditation Scheme.

The information required for the new register includes name and both home and professional contact details and history of criminal record. The APF believes this information does not belong in the register. The proposal indicates the details are needed to properly identify the individual. Why is a home address needed to properly identify the individual? One would think a contact and business address, along with the other key categories of information, are sufficient for identification purposes. Also, there is no reason to store information about criminal record in the register unless relevant to patient care. The APF is concerned the register will harm the privacy interests that are protected by NPP1, "1.1 An organisation must not collect personal information unless the information is necessary for one or more of its functions or activities." Even if there may be a case for holding additional information in some instances, it should be in a different 'layer' with additional access controls centred on a need to know basis. Hence, only the minimum amount of information required for identification purposes should be listed on the register [1].

(I)The APF is uncomfortable about the duplication of existing registration services.
(II) The APF is also concerned the register may harm privacy interests that are protected by NPP1.

2. **Proposal 3.2.1** offers two options to provide boards with the power to collect information to enable notification when a practitioner's registration status changes or conditions are placed on practice.

The first option requires name and address of employer, public health organisations, private hospitals, day procedure centres or nursing homes at which the practitioner is accredited to be recorded on registration and updated on renewal.

The second option provides the boards with a power to require the practitioner to provide these details to the board, as necessary.

The APF believes that the second option is adequate

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3. **Proposal 3.3.1, proposal 3.3.2** and **proposal 7.4** propose the allocation of a unique identifier (UI) for each health professional listed in the new registration and

accreditation scheme. NEHTA and Medicare Australia will be separately provisioned to adopt, use and disclose the UIs under certain circumstances. The APF can see the value of a UI to assist in matching individual professionals. However if the identifier is reliant on name, date of birth and other personal information, there will be a level of mismatch resulting in ongoing data quality issues.
Also, how will the UI system differ from current Medicare provider numbers?

Finally, the APF considers the proposals, if adopted, will present a significant "honey pot" for miscreants. Medical identity theft, a growing problem, would become a more significant issue than at present [2]. Furthermore, what sanctions would apply to misuse of the data? Currently we have very weak enforcement of privacy laws [3]. The proposals seem a misguided attempt at efficiency.

The APF is concerned that these proposals may duplicate existing UIs, hamper the quality of stored data and create a "honey pot", underpinned Australian privacy laws with weak enforcement capability.

4. **Proposal 3.8.1 and 3.8.3** concerns the ability for the Ministerial Council to specify that certain data items be collected as part of the process for registration renewal, so long as "it is not too burdensome". It is further proposed that information collected purely for workforce planning will not be made available for other board/agency purposes.

The APF is concerned about function creep. How will "too burdensome" and "clear need" be operationalised? Health professionals are already time-poor so even the smallest amount of additional work is "too burdensome". Also, a "clear need" for information should be operationalised so data from the register cannot be used for political ends or any other board/agency purpose.

The APF feels the wording of this proposal should be tightened so as to preclude function creep.

5. **Proposal 4.1 & Proposal 4.2.1** concerns the publication of names of clinicians, who are deregistered for conduct reasons, in the public domain. The entries will show that the clinician has been deregistered for conduct reasons. There is no

need to hold publicly available information about suspension on the register. Only currently registered practitioners should be listed in the public domain.

The APF supports Option 2, **Proposal 4.2.1**. De-registered practitioners should be removed from the public register.

6. **Proposal 4.3.1** concerns the recording of conditions of practice in the register.

As **Proposal 4.1** and **Proposal 4.3.1** indicate, conditions on practice, where relevant, would make a useful addition to the register.

The APF supports **Proposal 4.3.1**, the publication of conditions on practice where relevant

7. **Proposal 4.6** concerns public access to findings of formal procedures due to public interest. At the same time, Option2, **Proposal 4.6.2** says that boards may order that certain decisions are confidential and order that the decision register contain a confidential information notice.

The APF is concerned about the definition of "public interest". How will notions of the "public interest" be measured? Furthermore, if any conduct decisions of the board are to be published, then arguably, all conduct decisions of the board should be published in the register. Alternatively, clear and transparent guidelines must be discussed and decided upon in the public arena when deciding on the criteria used to withhold conduct decisions from the public. A determination to withhold conduct decisions from the public must be seen to be equitable in order to facilitate overall trust in the scheme.

The APF feels matters of "public interest" need to be operationalised if **Proposal 4.6** is to prove effective. If Option 2, **Proposal 4.6.2**, is adopted, then a transparent and public process must ensue to ensure that confidentiality clauses are just and transparent.

7. **Public access to timely information:** Finally, how do authorities plan to ensure registration information in the public domain is contemporaneous? By its very existence a national scheme will inspire public confidence in clinician licensing processes. There is a danger that any time lag may result in a deregistered clinician establishing a new practice or practising without a licence. Will the register in the public domain be maintained and kept up to date so that only currently licensed practitioners will be listed? Or will there be a delay in advising the public? Will the public be warned of the delay? What is the purpose of publishing registration information on the web (**Proposal 4.6**) if this is not contemporaneous?

The APF is concerned the public will be encouraged to rely on the register, either in hard copy or on the web, thus leaving them vulnerable to the risk of consulting a deregistered clinician or one where conditions of practice have been imposed by boards.

REFERENCES

[1] Office of the Privacy Commissioner (2006) The National Privacy Principles. (Cited 30 January 2009) Available: http://www.privacy.gov.au/publications/npps01.html#npp1

[2] iHealthBeat (2009) Report urges federal government to lead efforts to identify, curb medical identity theft. (Cited 30 January 2009) Available: http://www.ihealthbeat.org/Special-Reports/2009/Report-Urges-Federal-Government-To-Lead-Efforts-To-Identify-Curb-Medical-Identity-Theft.aspx

[3] Australian Privacy Foundation (2009) Privacy principles & interstate disclosure – GQ v NSW DET [2008] NSWADT 3191, Letters to NSW Privacy Commissioner & ors. (Cited: January 30 2009) Available: http://privacy@www.privacy.org.au/Papers/Ltr_NSWPC_ADT_case_090129.pdf