

Health Alert

June 2009

This Alert contains information on the following topics:

- > *NHHRC Release Of Supplementary Report On Electronic Health Records*
- > *Senate Standing Committee Report Into Residential And Community Aged Care*
- > *Productivity Commission Study Into Public And Private Hospitals*
- > *Legislation Update*

NHHRC Releases Supplementary Report On Electronic Health Records

On 30 April 2009, the National Health and Hospitals Reform Commission (**NHHRC**) released a supplementary report to the Interim report. The supplementary report deals exclusively with the issue of electronic health records.

The Commission views a patient controlled electronic health record (EHR) as central in achieving person-centred care. The Commission has made 7 recommendations to overcome past difficulties and make EHR a reality. A key recommendation is that by 2012 every Australian should be able to have a personal EHR that will be owned and controlled by them. The recommendations also include:

- > Changes to privacy laws to ensure privacy but also allow access by the person's health care providers.
- > The development of open technical standards for e-health for requirements such as interoperability, compliance and security.
- > Mandating that the payment of public and private benefits for all services on the basis that data can be integrated into the personal EHR.

The [detailed supplementary report](#) can be viewed at the National Health and Hospitals Reform Commission website.

Those of you who attended Thomson Playford Cutlers partner Lucinda Smith's presentation at the Australian Institute of Company Directors briefing on the Interim Report should note that Lucinda's presentation did not consider this supplementary report, as the supplementary report was released on the day of the briefing.

Senate Standing Committee Report Into Residential And Community Aged Care

Recently the Senate Standing Committee released its report on Residential and Community Aged Care in Australia. The report includes a total of 31 recommendations for the sector. Some of the key recommendations made in the report are:

- > A full review of the *Aged Care Act 1997* (Cth) and related regulations, which will give special consideration to the needs of disadvantaged groups.
- > A national aged care forum to consider, on an on-going basis, current and future challenges to the aged care sector.
- > A taskforce (or equivalent body) representative of all involved aged care stakeholders, including clients, to action and where possible implement determinations of the national forum.
- > Analysis to establish benchmark of care costs.



- > A review to address deficiencies in information in the aged care sector.
- > A 'stress test' of the aged care sector conducted by the Department of Health and Ageing to measure the sector's financial wellbeing.
- > Measures (including additional funding) to assist smaller providers to meet the requirements of the compliance framework.
- > A review of the indexation formula.
- > A review of methods directed to affirming the ACAT as a single nationally consistent program which genuinely serves as a single entry point to aged care services.
- > A national education campaign directed at new and potential aged care clients to raise awareness of the aged care services available to them including the role of ACAT and of their rights and entitlements in relation to such services.
- > Consideration of decoupling of residential care and accommodation.
- > Expanding community aged care funding and services to meet growing demand and expected quality service provision outcomes.

The key recommendations seek to address a range of current and future challenges for the aged care sector including, the ageing of the population leading to increased demand for care and support services and the changing nature of the aged care consumer. We welcome in particular a review of the *Aged Care Act 1997* (Cth) and its associated regulations and establishing benchmark of care costs in order to understand the relationship between subsidy allocation and indexation so that a proper analysis can be undertaken of the viability of the sector.

The entire 166 page [report](#) can be viewed on the Australian Parliament House website.

Productivity Commission Study into Public And Private Hospitals

The Commonwealth Government has asked the Productivity Commission to examine and report on the relative performance of the public and private hospital systems, and related data issues. This follows the Council of Australian Governments' agreement in November 2008 to reform the health and hospital system and introduce a nationally consistent approach to activity-based funding for public hospital services to allow comparisons of efficiency across public hospitals.

As part of the review, the Productivity Commission has been requested to consider:

- > Comparative hospital and medical costs for clinically similar procedures performed by public and private hospitals.
- > The rate of hospital-acquired infections by type, reported by public and private hospitals.
- > Rates of fully-informed financial consent by privately-insured patients, out-of-pocket expenses for patients who do not give such consent, and best-practice examples where fully-informed financial consent is provided for every procedure.
- > Other relevant performance indicators, including the ability of such indicators to inform comparisons of hospital performance and efficiency.

The Productivity Commission has also been asked to advise the Government on the most appropriate indexation factor for the Medicare Levy Surcharge thresholds.

We look forward to reviewing the Productivity Commission's report which has the difficult task of reporting comparatively across a diverse range of public and private hospitals with different challenges, demands and available funding.

We also welcome the review into the rates of informed financial consent and detail around best practice examples which may inform other providers of workable processes which can be adopted, particular in areas where rates of informed consent are currently low.

More information about the review, including the terms of reference, are available at the [Productivity Commission's website](#).

Legislation Update

Allocation Principles (Cth)

The *Allocation Amendment Principles 2009 (No. 1) 2009* (Cth) amend the *Allocation Principles 1997* (Cth). The amending Principles insert a new section 4.4C to specify that people who are homeless or at risk of becoming homeless are "people with special needs" for the purpose of the *Aged Care Act 1997* (Cth). The amending Principles will commence on 1 June 2009.

Health Legislation Amendment Act 2009 (NSW)

The *Health Legislation Amendment Act 2009* (NSW) was assented to on 13 May 2009 and came into effect on that day.



This amending Act amends the *Health Services Act 1997* (NSW) (Act) to:

- > Provide that board governed health corporations with fewer than 50 staff members are not required to appoint a member of the NSW Health Service to the board.
- > Provide that where the position of chief executive of a board governed health

corporation is an “executive position” within the meaning of Part 3 (The Health Executive Service) of Chapter 9 (The NSW Health Service) of the principal Act, the chief executive is to be appointed under that Part.

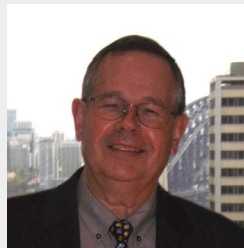
- > Include expanded protection from liability provisions which will protect persons providing expert advice or assistance in the performance review

of an employee of a non-declared affiliated health organisation who is employed in relation to a recognised establishment or service of the organisation.

For more information on these topics please contact:



Lucinda Smith
Partner
+61 2 9020 5748
lucinda.smith@thomsonplayfordcutlers.com.au



Jim Baillie
Special Counsel
+61 2 9020 5746
jim.baillie@thomsonplayfordcutlers.com.au



Samantha Culshaw
Senior Associate
+61 2 9020 5712
samantha.culshaw@thomsonplayfordcutlers.com.au



Elyse Jeffress
Senior Associate
+61 2 9020 5739
elyse.jeffress@thomsonplayfordcutlers.com.au



Marc Wyld
Associate
+61 2 9020 5708
marc.wyld@thomsonplayfordcutlers.com.au