



Wednesday 12 September 2018

Committee Secretary
Senate Standing Committees on Community Affairs
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Secretary,

RE: INQUIRY INTO MY HEALTH RECORD SYSTEM

Victorian Trades Hall Council (VTHC) welcomes the opportunity to make a submission to the inquiry into the My Health Record (MHR) system in Australia.

VTHC was founded in 1856 and is the peak body for unions in Victoria. VTHC represents over 40 unions and more than 400,000 workers in Victoria. These workers are members of unions that reach into every industry in the state, both in the public and private sectors.

Since gaining the Eight Hour Day in April 1856, VTHC has had a long history of fighting for and defending the rights of workers in Victoria. The importance of winning the eight hour day is significant not just in Australia but worldwide. Few advances in the quality of life for working people would have been achieved without the involvement of the Victorian union movement.

Over the last 160 years, VTHC and its affiliated unions have campaigned for and successfully won a range of important rights and entitlements for Victorian (and Australian) workers, including:

- Minimum wage
- Penalty rates
- Collective bargaining rights
- Occupational Health and Safety (OHS) protections
- Annual as well as sick (and carer's) Leave
- Maternity and parental leave
- Domestic violence leave
- Superannuation, and
- Protections from unfair dismissal and redundancy entitlements

VTHC will continue to campaign tirelessly for the rights, entitlements and protections of workers in Victoria, no matter their employment status, employer or workplace.

LUKE HILAKARI
Secretary

CARINA GARLAND
Assistant Secretary

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In our work, VTHC places the utmost emphasis on workers' health and safety. While broadly supportive of the concept of an electronic health record for epidemiological purposes, VTHC is concerned about the default settings in a mandatory MHR and the current lack of legislated privacy controls. VTHC is concerned about the impact the system, as it is currently designed, will have on workers who are, for example:

- Required to undergo pre-employment medical checks;
- Steered towards employer-directed treatments or use of company doctors;
- Navigating the WorkCover system.

VTHC is concerned that, without proper privacy protection, employers who have access to a worker's MHR in these scenarios will have more opportunity to discriminate against them.

We note the work of the Australian Council of Trade Unions (ACTU) in their submission, and support their position, in particular:

- *Concerns regarding impact on workers are predominantly related to employer and insurer access to the MHR data as part of pre-employment checks, worker's compensation processes and as part of regular employment-related health checks*
- *Employer-nominated doctors – and by extension employers – having access to job seekers' medical history during pre-employment medical assessments or regular employer sponsored medical examinations/assessments;*
- *Employer/insurance company-nominated doctors having access to injured workers' unrelated medical history, such as during independent medical examinations required under workers compensation laws;*
- *Health information recorded in the My Health Record being disclosed for 'secondary use purposes' under control of a Governance Board which has not yet been established.*
- *Employers and insurers being able to gain access to workers' detailed medical records – allowing discrimination on the basis of medical history, which would represent an unacceptable invasion of privacy for workers and would place ever more power in the hands of employers.*

- ACTU submission, "Whose Health Record is it anyway?", p2

We also note and support the ACTU's proposed solutions to the issues raised:

- *Directly including a clause similar to s14(2) Healthcare Identifiers Act 2010's (Cth) into the MHR Act that excludes access for the purposes described in that clause. The exclusion should clearly apply irrespective of how the MHR is accessed (i.e. using a IHI or Medicare number, etc) and also cover access during employment and not just recruitment.*
- *Non-compliance with MHR requirements around privacy must include significant penalties for both organisations and individuals;*
- *Legislative obligations around data security, privacy, probity etc. must also apply to the holder of the database, not just those accessing it;*
- *Legislative safeguards against privatisation or commercialisation of the database;*
- *Clearer and easier to use controls over data upload;*
- *Taking measures aimed at increasing the default privacy settings for those automatically opted-in.*

- ACTU submission, "Whose Health Record is it anyway?", p6-7

VTHC believes that any steps that can be taken to tighten legislative privacy requirements and enhance a person's agency and control over their MHR are critical to ensuring that untoward access and information sharing do not occur.

In addition to the ACTU's recommendations, the VTHC recommends:

- A default requirement to set up an access PIN for a MHR;
- Clearer parameters about who is authorized to access a MHR;
- Legislating against future privitisation of the system.

If you have any questions, please do not hesitate to contact Danae Bosler

Thank you for your consideration.

Yours sincerely,

—
Luke Hilakari
Secretary

Ref: LH:CB