

**Submission to the Senate Community Affairs Legislation Committee
National Health Reform Amendment
(National Health Performance Authority) Bill 2011**

by Trevor G. Kerr, April 2011

The purpose of this personal submission is to draw the attention of Senators to the introductory statement made by the Minister in the Second Reading of the Bill.

The performance authority will work to open up the performance of the health and hospital system to new levels of national transparency and accountability; (1)

In relation to the need for transparency and accountability it seems the first of the Nolan Principles (Seven Principles of Public Life) may apply.

Selflessness : Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends. (2)

The Bill sets out the usual mechanism for disclosure of financial interests under Items 76 and 77 (Part 3.4 Terms and conditions for members of the Performance Authority), for example:

A member of the Performance Authority must give written notice to the Minister of all interests, pecuniary or otherwise, that the member has or acquires and that conflict or could conflict with the proper performance of the member's functions. (3)

Department of Finance and Deregulation issued Guidance on Ethics and Probity in Government Procurement.

Conflicts of interest may arise in the course of business operations, especially during the procurement process. Possible conflicts are extremely varied but include pecuniary interests, legal interests, associations with external associations and non-direct personal interests. In carrying out one's duties, officials must not allow themselves to be improperly influenced by family, personal or business relationships. (4)

It seems reasonable to make observations.

1. The intention that this agency will be a major determinant of government expenditure on health.
2. Much of the work of the agency will be directed at the purchase and provision of improved (and more expensive) drugs and devices.
3. Private health providers will look to it as a setter of benchmarks.
4. Merchants of medical consumables and their lobbyists are bound to exert influence on users and funding authorities.(5)
5. There is an expressed view from some private providers that there be a single funder. (6)
6. Continuing convergence of media means more influence on public perceptions may be concentrated in the hands of fewer, private individuals. (7)

Therefore, since great power will be placed in the hands of the Chair and other members of the NHPA, the public may be better served by having their declarations of pecuniary interests taken from under the secretive purview of Ministerial confidence.

Meredith Edwards discussed models for managing conflicts of interest in her paper Appointments to Public Sector Boards in Australia: A comparative assessment, including those where details of conflicts of interest would be made publicly available. (8)(see Issues Paper No. 3)

There are ongoing reforms in the US and the UK to open up government documents to the public. (9) (10) (11) (12) (13)

Thus, transparency, a principal aim of the Bill, will be enhanced if the major financial interests of NHPA members are published where they can be seen, on an accessible website.

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