

**MIAA Submission
to the
Senate Community Affairs Committee
inquiry into the
Healthcare Identifiers Bill 2010
and
Healthcare Identifiers (Consequential
Amendments) Bill 2010**

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The MIIAA

The Medical Indemnity Industry Association of Australia (MIIAA) is the peak body for the Australian Medical Indemnity Industry and represents its members on issues of common interest or concern. The MIIAA is an industry association and its members include Australian based medical indemnity insurers and medical defence organisations. Members of the MIIAA represent approximately 75per cent of insured doctors in Australia.

We have limited our submissions to Part 3, Division 2 of the Bill and Division 4 part 26 of the Bill as these directly affect the operations of medical indemnity insurers.

Part 3, Division 2 Disclosure of healthcare identifier by service operator **S20 Disclosure for authentication of healthcare provider's identity**

Section 20 allows for the service operator to disclose an identified healthcare provider's information to an entity for the purposes of the entity issuing a key to the healthcare provider to enable the healthcare provider's identity to be authenticated in electronic transmissions. The entity in this regard is authorised to collect the HI and to use the HI for the purposes of the entity issuing a key to the healthcare provider. There is nothing in this section that provides that this process is subject to the consent of the healthcare provider. It seems likely, therefore, that the entity is able to collect the health provider's HI, even without their consent.

MIIAA is of the view that the consent of the healthcare provider is an important security mechanism; otherwise entities may be able to collect and have keys issued without a doctor's consent or knowledge.

Division 4 Section 26 Unauthorized use and disclosure of healthcare identifiers prohibited

Section 26 deems it to be an offence to disclose an HI unless the person can prove that disclosure was for a purpose that is authorized under another law. This exception is narrow. MIIAA submits for the purposes of this Act, MIIs be exempt and that S26(2)(d) be added to state:

"An MII uses or discloses the HCI in performing the functions of its business."

MIIAA acknowledges that S24 Use and Disclosure for other purposes has been expanded in this Bill to include pursuant to S 24(1) (ii) the management (including the investigation or resolution of complaints), funding, monitoring or evaluation of healthcare: However, MIIAA submits that the functions of a Medical Indemnity Insurer are broad and the amendments to S24 do not enable MII to fulfill their functions to their Members and meet their statutory requirements.

MIIAA recommends that the disclosure in accordance with the provisions of the Privacy Act 1988 be a defence to section 26 of the Healthcare Identifiers Bill 2010.

Should you have any queries in relation to this submission contact should be made with:

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