

SENATE COMMUNITY AFFAIRS COMMITTEE

INQUIRY INTO:

HEALTHCARE IDENTIFIERS BILL 2010

**HEALTHCARE IDENTIFIERS (CONSEQUENTIAL AMENDMENTS) BILL
2010**

**SUBMISSION BY THE AUSTRALIAN GOVERNMENT
DEPARTMENT OF HEALTH AND AGEING**

MARCH 2010

1 OVERVIEW

The legislative support for the Healthcare Identifiers Service (“HI Service”) comprises of two Bills – Healthcare Identifiers Bill 2010 and Healthcare Identifiers (Consequential Amendments) Bill 2010 – which will establish a national system for consistently identifying consumers and healthcare providers and set out clear purposes for which healthcare identifiers can be used.

Under the proposed arrangements, from 1 July 2010, all individuals receiving healthcare in Australia and participating healthcare providers and provider organisations will be assigned a healthcare identifier.

Healthcare identifiers are part of the core national infrastructure required to support the management of health information and secure electronic communications across Australia’s healthcare system. The implementation of the HI Service will:

- support secure messaging from one healthcare provider to another by providing a consistent identifier that can be used in e-communication;
- facilitate electronic communications between providers by enabling healthcare providers to look up the contact details of other providers; and
- support the implementation of a security and access framework to ensure the appropriate authorisation and authentication of healthcare providers who access national e-health infrastructure.

The proposed legislative arrangements for the HI Service have been developed by the Commonwealth, states and territories, in consultation with the National E-Health Transition Authority (NEHTA), key stakeholder groups and the broader Australian community.

Two rounds of public consultation were undertaken as part of the legislative development process, the first in July-August 2009 and the second in late November 2009 to early January 2010. The second process included the release of exposure draft legislation. Comments received through both rounds of consultation have informed the proposed legislation for the HI Service. Further detailed information about these earlier consultation processes is outlined at [Appendix 1](#). Public consultation on the proposals for regulations to support the operation of the HI Service is expected to be undertaken in early March to early April 2010.

This submission focuses on three key areas identified as requiring further examination:

- privacy safeguards contained in the Bills;
- the operation of the HI Service, including access to identifiers; and
- the relationship between the HI Service and the national eHealth agenda, including the development of electronic health records.

2 BACKGROUND

The establishment of the national HI Service is a joint initiative of all Australian Governments.

In February 2006, the Council of Australian Governments (“COAG”) agreed to a national approach to developing, implementing and operating systems for healthcare identifiers for individuals and providers as part of accelerating work on a national electronic health records system to improve safety for patients and increase efficiency for healthcare providers. COAG reaffirmed this decision in 2008 and agreed to universally allocate a unique identifying number to each individual healthcare recipient in Australia.

On 7 December 2009, COAG signed a *National Partnership Agreement for E-Health* (“NPA for eHealth”). This Agreement provides a framework for cooperative jurisdictional arrangements and responsibilities for eHealth and sets out the objectives and scope for the HI Service, as well as relevant governance, legislative, administrative and financial arrangements. A copy of the NPA for eHealth is at [Appendix 2](#).

Communication of health information is a vital part of effective healthcare. The accurate identification of individuals is critical in all health communication. Mismatching of patients with their records and results is a documented problem for the health system and a clear link has been established between avoidable harm to patients and poor medical records management.

The costs of adverse events and medical errors are significant. It has been estimated that 10% of hospital admissions are due to adverse events and that up to 18% of medical errors are due to the inadequate availability of patient information.¹

Using an individual healthcare identifier will provide a way for healthcare providers to more accurately match the right records to the person they are treating and improve accuracy when communicating information with other healthcare providers. This will help to avoid medical mix-ups or one person’s information being recorded on another patient’s file.

Healthcare identifiers are part of the national infrastructure required to support secure electronic communications across Australia’s healthcare system. Failing to establish this infrastructure is likely to result in duplication or fragmentation of investment, limited uptake and adoption of eHealth initiatives, and limited interoperability of available solutions creating a ‘rail gauge’ problem that will become difficult or expensive to rectify.

¹ Australian Institute of Health and Welfare, *Australia’s Health 2002*, as quoted in Deloitte, *National E-Health Strategy*, 2008, page 94.

3 OVERVIEW OF THE HI SERVICE

E-Health is about ensuring that the right health information is provided to the right person, at the right place and time, in a secure electronic form. It aims to optimise the quality and efficiency of health care delivery.

The National E-health Strategy published by Health Ministers in December 2008, sets out how eHealth can improve healthcare and support reform priorities by:

- enabling access to more reliable patient health information across the continuum of care;
- enabling consumers to more actively participate in their healthcare through improved access to health information;
- reducing the amount of time spent on manual processes associated with coordinating treatment; and
- improving clinical and administrative decision-making.

The establishment of the HI Service is a key foundation to support the development of national eHealth initiatives. The HI Service will be responsible for assigning, issuing and maintaining national healthcare identifiers for consumers and providers. Medicare Australia will be the initial operator of the HI Service.

Three different types of healthcare identifiers will be assigned by the Service Operator:

- Individual Healthcare Identifiers (IHIs) will be given to all Australian residents and others seeking healthcare in Australia;
- Healthcare Provider Identifiers – Individual (HPI-Is) will be assigned to healthcare professionals; and
- Healthcare Provider Identifiers – Organisation (HPI-Os) will be assigned to organisations where healthcare is provided.

Healthcare identifiers have been designed for use within the health sector. Their use is specifically limited to supporting the communication and management of health information as part of:

- providing healthcare to an individual;
- the management, funding, monitoring or evaluation of healthcare;
- providing indemnity cover for a healthcare provider;
- lessening or preventing a serious threat to an individual's life, health or safety or a serious threat to public health or public safety; or
- conducting of research that has been approved by a Human Research Ethics Committee.

The introduction of healthcare identifiers will not change the way individuals currently access healthcare services or how information is shared by providers. Any sharing of personal health information will still need to be undertaken in accordance with existing privacy and health information laws in Australia.

A further component of the HI Service is the Provider Directory Service (“PDS”), available to healthcare providers. Healthcare providers issued with HPI-Is or HPI-Os will have the option of being included in the PDS. The PDS will enable the search and location of healthcare providers and support communication and information exchange between them, such as referrals, test orders and results.

The key benefits of using the health identifiers will include:

- providing a way for healthcare providers to more consistently match the right records to the person they are treating and improve accuracy when communicating information with other healthcare providers; and
- providing an additional layer of certainty to ensure that health information can be communicated accurately and efficiently. This reduces the chance that health information may be inadvertently sent to the wrong provider or organisation, enhancing the flow of health information to support timely decision making as part of delivering healthcare.

Legislative framework for the HI Service

The Healthcare Identifiers Bill 2010 and Healthcare Identifiers (Consequential Amendments) Bill 2010 set out the functions of the new HI Service, the assignment of healthcare identifiers, functions of the Privacy Commissioner and the purposes for which identifiers may be used or disclosed. It also provides authority for use of personal information for the purpose of assigning identifiers, offences and penalties relating to misuse of identifiers and a review of the operation of the HI Service.

A brief summary of the key elements of the Healthcare Identifiers Bill is set out at [Appendix 3](#).

In addition to primary legislation, regulations will be required to support the operation of the HI Service. In accordance with the Healthcare Identifiers Bill, regulations can be made in the following areas:

- prescribing additional identifying information to support the assignment of healthcare identifiers to healthcare providers;
- prescribing appropriate bodies as data sources;
- prescribing a service operator other than Medicare Australia; and
- prescribing requirements for assigning a healthcare identifier to a healthcare recipient or healthcare provider, such as eligibility criteria for healthcare providers and any security obligations that healthcare providers must meet to be assigned a healthcare identifier.

An exposure draft of proposed Healthcare Identifiers Regulations and an associated paper are to be released for public consultation shortly. The Department will provide these to the Committee as soon as they are available to assist the Committee in its consideration of the HI Bill.

4 KEY ISSUES FOR CONSIDERATION BY THE SENATE COMMUNITY AFFAIRS COMMITTEE

The Senate Community Affairs Committee has identified three key areas in relation to the legislative arrangements for the HI Service which require further consideration:

- privacy safeguards in the Bill;
- operation of the HI Service, including access to identifiers; and
- the relationship between the HI Service and the to national eHealth agenda and the development of electronic health records.

4.1 Privacy safeguards in the Bill

Privacy is a fundamental principle underpinning quality healthcare. Consumer trust in the appropriate handling of personal health information must be maintained as the health sector moves to implement new technologies such as healthcare identifiers.

Healthcare identifiers will be protected through a number of mechanisms including legislation, national governance arrangements and the technical design of the HI Service.

A clear privacy framework for healthcare identifiers set out in legislation will allow consumers and providers to reap the benefits from improved information flows at the point of care whilst being assured that individual privacy will be protected.

4.1.1 Privacy framework to support healthcare identifiers

The desire for a uniform national framework to support the handling of health information, including healthcare identifiers, was a clear outcome of the public consultation process on the legislative proposals for healthcare identifiers undertaken in July-August 2009.

Australian Health Ministers have agreed to the development of uniform national privacy arrangements for health information as part of the broader privacy framework. The Australian Government is expected to release exposure draft legislation later this year, seeking to amend the *Privacy Act 1988* as part of its response to the Australian Law Reform Commission's final report on Australian privacy laws. The Australian Government response is also expected to form the basis for a nationally consistent privacy framework to be considered by all governments.

Until uniform national privacy arrangements for health information are in place, healthcare identifiers will be supported by existing privacy arrangements and specific privacy protections contained in the Healthcare Identifiers Bill, including strict limits on the use and disclosure of healthcare identifiers.

It is intended that the privacy protections included in the Healthcare Identifiers Bill will apply to all private and public sector bodies. This includes state and territory public sector bodies. Complaints relating to healthcare identifiers will be handled by the Federal Privacy Commissioner.

Where a state or territory has existing privacy arrangements in place, including an appropriate regulator, that regulator will be responsible for handling complaints relating to healthcare identifiers which are made against public sector organisations. Each state or territory will need to pass complementary legislation to put the arrangements in place.²

State and territory legislative proposals will be subject to consideration by the Ministerial Council, in accordance with the NPA for eHealth.

Until state and territory arrangements are in place, complaints against a state or territory public body will be handled by the Federal Privacy Commissioner (section 29(2), Healthcare Identifiers Bill 2010). The role of the Federal Privacy Commissioner is discussed further in section 4.1.3.

The handling of any personal information associated with a healthcare identifier will continue to be subject to existing privacy arrangements under Commonwealth, state or territory law that apply to the body holding the information.

4.1.2 Limits on the use and disclosure of healthcare identifiers and authorised users of the HI Service

The legislative support for healthcare identifiers imposes specific limits on the adoption, use and disclosure of healthcare identifiers. Healthcare identifiers can only be used for health information management and communication as part of:

- delivering a health service;
- the management, funding, monitoring and evaluation of a health service;
- research approved by a Health Research Ethics Committee;
- the provision of indemnity cover for healthcare providers;
- lessening or preventing a serious threat to an individual's life, health or safety or a serious threat to public health or public safety
- establishing an authentication mechanism (such as a digital certificate) for a HPI-I and HPI-O; or
- where it is otherwise authorised or required by law.

These purposes provide a clear framework for the proper use and disclosure of healthcare identifiers and are intended to capture the legitimate uses for which healthcare identifiers may be used for, as part of delivering health services.

Access to the HI Service for the purpose of obtaining an individual's healthcare identifier for inclusion in a healthcare provider's records or to find a healthcare provider's identifier and contact details (for example, to send a referral) will be limited to the following groups:

- Identified individual healthcare providers, that is, those who have been assigned a HPI-I; and

² Section 37(4) and (5), Healthcare Identifiers Bill 2010 enables a declaration to be made stating that certain provisions do not apply to a state or territory public sector body.

- Individuals authorised to access the HI Service on behalf of an identified healthcare provider organisation, that is, an authorised employee of an organisation that has been assigned a HPI-O.

Further information on who will be assigned a healthcare identifier is outlined in section 4.2.1.

Regulations may prescribe requirements for assigning a healthcare identifier to a healthcare provider, such as eligibility criteria for healthcare providers and any security obligations that healthcare providers must meet.

Authorised users will be able to access the HI Service through a number of different channels including web-based services. Appropriate authentication (such as a digital certificate) will be required to support this. Authorised users and access to the HI Service is discussed further in section 4.2.2.

Healthcare identifiers are identifiers for the purpose of National Privacy Principle 7 and must not be adopted, used or disclosed by private sector bodies other than for the permitted purposes outlined above.

4.1.3 Role of the Privacy Commissioner in overseeing the appropriate handling of healthcare identifiers

The Federal Privacy Commissioner has been identified as the appropriate regulator to undertake functions to support the independent regulation of the operation of the HI Service and how healthcare identifiers are used and disclosed (section 29, Healthcare Identifiers Bill 2010).

Provisions have been included to ensure that an act or practice that contravenes the Healthcare Identifiers Bill 2010 is an interference with an individual's privacy (section 29(1), Healthcare Identifiers Bill 2010 and schedule 2, item 4, Healthcare Identifiers Consequential Amendments) Bill 2010).

These provisions will enable the Privacy Commissioner to investigate matters relating to the inappropriate handling of healthcare identifiers in line with the existing powers of the Privacy Commissioner under the *Privacy Act 1988* and additional functions established to support healthcare identifiers (schedule 2, item 5, Healthcare Identifiers (Consequential Amendments) Bill 2010).

The Privacy Commissioner will exercise existing functions including conducting audits of public sector agencies and own motion investigations in relation to regulating the handling of healthcare identifiers. In addition, the Privacy Commissioner will investigate an interference of an individual's privacy in relation to healthcare identifiers and where appropriate, attempt to settle the matter by way of conciliation.

The Federal Privacy Commissioner will be responsible for undertaking investigations against Commonwealth agencies and private sector organisations. Each state and territory is expected to nominate a local regulator to oversight the handling of identifiers by its state or territory bodies and to put these arrangements in place through legislation. Until such arrangements are in place, the Federal Privacy

Commissioner will investigate complaints against state and territory public sector bodies (section 29(2), Healthcare Identifiers Bill 2010).

4.1.4 Offences and penalties for misuse of healthcare identifiers

In line with Commonwealth guidelines for establishing offences and penalties, certain conduct should be classified as criminal due to the nature of the wrongdoing involved. This may include conduct that results in physical or psychological harm to others or dishonest or fraudulent conduct such as false and misleading statements, bribery or forgery.

In addition, criminal offences should be used where the relevant conduct involves considerable harm to society, the environment or Australia's national interests, including security interests.

Strong offence provisions have two main purposes – to act as a deterrent and to punish those who have acted inappropriately. Offences and penalties (including criminal penalties) have been included for both employees of the HI Service Operator and other participants within the health sector in recognition of the sensitivity surrounding the HI Service and healthcare identifiers.

- ***Service Operator employees***

Employees of the Service Operator will be able to use information disclosed to them for a permitted purpose such as assigning a healthcare identifier. Any use or disclosure of that information which does not fall within the permitted purposes outlined in the Bill is an offence and will be subject to criminal penalties (section 15(1) and (2), Healthcare Identifiers Bill).

The types of inappropriate activities this provision intends to capture include where an employee uses information held by the Service Operator (such as someone else's name and address) and discloses that information to another person or uses it themselves for a purpose that is not permitted.

A separate offence and penalty is included for circumstances where information is disclosed to an employee for a purpose which is not permitted under the Bill and the employee is aware of this but chooses to use or disclose the information anyway (section 15(3), Healthcare Identifiers Bill). This does not apply to circumstances where an individual uses or discloses the information for the purpose of reporting a contravention of the Bill to the appropriate authorities (section 15(4), Healthcare Identifiers Bill).

Employees of the Service Operator will undergo training to ensure they are aware of their obligations when handling healthcare identifiers. Materials or resources will be available to assist the Service Operator in providing this training.

- ***Users of healthcare identifiers***

A person is authorised to use or disclose a healthcare identifier where it has been disclosed to them for a permitted purpose and their use or disclosure of the identifier falls within the permitted purposes under the Bill (see section 4.1.2 above for a list of permitted purposes).

Any use or disclosure that does not fall within the permitted purposes under the Bill or is for the purpose of, or in connection with, the person's personal, family or household affairs (within the meaning of section 16E of the Privacy Act), is an offence and subject to a penalty (section 26(1), Healthcare Identifiers Bill). This is intended to ensure that the use of healthcare identifiers is limited to the healthcare sector.

Healthcare providers will need to ensure that all staff are aware of their obligations when handling healthcare identifiers. Materials or resources will be available to assist healthcare providers in providing this training.

4.1.5 Other technical protection features included in the design of the HI Service

In addition to the specific legislative privacy protections for healthcare identifiers, the HI Service has been designed to include a number of technical elements to protect the personal information held by the HI Service.

For instance, the system design does not allow for an identified healthcare provider, that is, an individual provider that has been assigned a HPI-I or an organisation assigned a HPI-O to "browse" the records held by the Service Operator. A request by an identified healthcare provider for a patient's identifier will only reveal an IHI when there is an exact match with patient information provided by the healthcare provider.

In addition, each time a record held by the Service Operator is accessed by an identified healthcare provider, the details of who has accessed the record and when, will be recorded in an audit log.

The introduction of healthcare identifiers will also not impact or limit the delivery of anonymous healthcare. Treatment will not be denied where a healthcare identifier is unavailable for whatever reason. Where it is lawful and practical, individuals can seek treatment and services on an anonymous basis. In these instances, an IHI would not need to be used by the healthcare service.

Pseudonyms may be issued by the HI Service in special circumstances such as where an individual may be vulnerable or at risk. This option has been designed to provide a way for individuals to have continuity of care while at the same time having an alternative identifier that is segregated from their real identity.

The HI Service Operator will have arrangements in place to support this option and will make available information about the types of situations where the use of a pseudonym may be of assistance and how pseudonyms will work in practice.

4.2 Operation of the Healthcare Identifiers Service, including access to healthcare identifiers

The Service Operator will be responsible for the effective operation of the HI Service.

The design of the HI Service draws on existing elements of Medicare Australia's infrastructure including trusted personal information about individuals, consumer Medicare cards, information policies, and customer services such as shop front and online services. For these reasons, the Chief Executive Officer of Medicare Australia will be the operator of the HI Service (section 6, Healthcare Identifiers Bill 2010).

The HI Service, including Medicare Australia's role as the initial Service Operator will be subject to a formal review after two years of operation (section 35, Healthcare Identifiers Bill 2010). The Ministerial Council's responsibility with regard to the review is discussed further in 4.2.3.

Provision has been made to enable another operator to be prescribed through regulations (section 6, Healthcare Identifiers Bill 2010). Any decision to make such a change would be subject to consideration by the Ministerial Council before the Minister for Health and Ageing could make regulations changing the Service Operator (section 33, Healthcare Identifiers Bill 2010). Regulations would be tabled in both Houses of Parliament, but are subject to disallowance by the Senate.

Any HI Service Operator would be subject to the requirements and processes established by the legislation and regulations including;

- oversight by the Federal Privacy Commissioner;
- confidentiality requirements and penalties for staff of the HI Service Operator;
- processes for assigning and disclosing healthcare identifiers to authorised providers for authorised purposes;
- reports to the Ministerial Council and tabling in Parliament; and
- policy directions issued by the Ministerial Council.

The key functions of the Service Operator will include:

- assigning, collecting and maintaining healthcare identifiers for individuals, individual healthcare providers and organisations (section 9 and 10, Healthcare Identifiers Bill 2010);
- collecting information from individuals and other data sources (section 11(2), 12(3) and 16(2), Healthcare Identifiers Bill 2010);
- developing and maintaining mechanisms for users to access their own records and correct or update details (sections 10 and 18, Healthcare Identifiers Bill 2010);
- establishing a Provider Service Directory that will enable healthcare providers to search for and locate other providers to facilitate communication between them (section 31, Healthcare Identifiers Bill 2010); and
- using and disclosing healthcare identifiers and associated personal information, for the purposes of operating the Healthcare Identifiers Service (sections 17, 18, 19, 20, Healthcare Identifiers Bill 2010).

4.2.1 Assignment of healthcare identifiers

The Service Operator will be authorised to assign an IHI to each individual receiving healthcare in Australia (section 9(1) and (4), Healthcare Identifiers Bill 2010).

Obtaining the consent of the individual before the identifier is assigned will not be required. This in line with the decision made by COAG in November 2008, when it was agreed that individual healthcare identifiers would be universal as a voluntary model was assessed as unworkable. A voluntary model would have required healthcare providers to maintain duplicate systems, undertake additional steps to manage individual decisions to participate or withdraw participation and would have limited uptake which would have reduced the benefits for providers and consumers from improved electronic health communication

IHIs will be automatically assigned against demographic information provided by trusted data sources including Medicare Australia and the Department of Veterans' Affairs. Additional data sources can be prescribed through regulations, if and when it becomes necessary (section 12, Healthcare Identifiers Bill).

Individuals will be notified about the HI Service, including the assignment of healthcare identifiers through a communications campaign. A range of communications activities will be undertaken by NEHTA, in conjunction with all jurisdictions to promote eHealth more broadly as well as the HI Service.

Individuals who are not automatically assigned an IHI in advance, or who cannot be uniquely identified in the HI Service when presenting for healthcare services, will be able to have temporary numbers generated at the point of care. These numbers can be verified with the Service Operator by going through an evidence of identity process.

Healthcare will not be denied to an individual where an IHI is unavailable for whatever reason and the introduction of healthcare identifiers is not intended to alter current arrangements for the delivery of anonymous or pseudonymous healthcare. These issues are discussed further in section 4.1.5.

Individual healthcare providers and healthcare provider organisations will also be allocated an identifier. Individual healthcare providers who belong to professions included in the Australia Health Practitioner Regulation Agency ("AHPRA") will be assigned a healthcare provider identifier through national registration boards established under this scheme (section 9(2), Healthcare Identifiers Bill 2010).

This identifier will be used for both professional registration purposes and information management and communications purposes and as such, the healthcare identifier and any associated identifying information will need to be provided to the Service Operator from the relevant national registration board. Information sharing principles for the Service Operator and AHPRA have been established (Attachment A of Schedule 1, NPA for eHealth). In addition, provision has been made in the Healthcare Identifiers Bill to enable such information flows to occur (section 13, Healthcare Identifiers Bill 2010).

For healthcare providers whose professions are not included in the national scheme, the Service Operator will be responsible for assigning individual healthcare provider identifiers, subject to the healthcare provider being included in a class of providers prescribed in regulations and the provider meeting any prescribed criteria (section 9(1), Healthcare Identifiers Bill 2010).

These arrangements will ensure that a broad range of healthcare providers have the opportunity to participate in the Healthcare Identifiers Service and future national eHealth initiatives.

Healthcare provider identifiers will be issued to organisations that provide a health service and provide evidence that the organisation is a legal entity, or part of a legal entity that will have overall responsibility for the organisation's participation in the HI Service.

Where a healthcare provider is a sole practitioner, the provider will be assigned an identifier both as individual provider and an organisation (section 9(3), Healthcare Identifiers Bill 2010).

4.2.2 Authorised users of the HI Service and arrangements to access identifiers

As outlined in 4.1.2, access to the HI Service will be limited to:

- identified individual healthcare providers, that is, those who have been assigned a HPI-I; and
- Individuals authorised to access the Service on behalf of a healthcare provider organisation, that is an authorised employee of an organisation that has been assigned a HPI-O.

Authorised users will be able to access the HI Service through a web service, a Healthcare Identifiers business office (for example, a Medicare Australia shop front) and through a telephone support service. Authorised users will be able to use these channels to locate and retrieve a healthcare recipient's healthcare identifier.

Individual consumers will be able to access the HI Service through a telephone support service and the Medicare Australia Consumer Portal to view information attached to their own healthcare identifier and the associated audit logs.

Once healthcare identifiers have been obtained from the HI Service and are available either via a healthcare provider's system or included in a healthcare record, the healthcare organisation will determine who is permitted to use and disclose the identifiers, but only for the purposes permitted in the Bill.

To facilitate efficient use of the HI Service, a process has been developed for a healthcare provider organisation to carry out a batch search against records held by the HI Service. This will allow a healthcare provider's patient index to be initially populated with matching IHIs for patients already known to the healthcare provider.

Batch searches can be conducted by HPI-Os or HPI-Is where a batch file is provided to the HI Service. The HI Service will attempt to locate an IHI for each individual listed in the batch, and will only return the IHI where an exact match is found. If an

exact match is not found an error message will be returned to the healthcare provider organisation.

4.2.3 Role of the Ministerial Council in overseeing the Healthcare Identifiers Service

The HI Service is a COAG sponsored initiative. The NPA for eHealth includes arrangements to support the HI Service and establishes a role for a Ministerial Council to provide oversight of the HI Service (schedule A, NPA for eHealth). The Australian Health Ministers' Conference will be responsible for providing this oversight.

Key functions of the Ministerial Council specified in the NPA for eHealth have been reflected in the Healthcare Identifiers Bill 2010. These functions include:

- issuing directions to the Service Operator about the operation of the HI Service (section 32, Healthcare Identifiers Bill 2010);
- reviewing proposals for regulations to support the operation of the HI Service (section 33, Healthcare Identifiers Bill 2010);
- reviewing the Annual Report provided by the Service Operator (section 34, Healthcare Identifiers Bill 2010); and
- reviewing the operation of the HI Service (section 35, Healthcare Identifiers Bill 2010).

In accordance with the legislation and the NPA for eHealth, the review of the operation of the HI Service must be completed and a report provided to the Minister for Health and Ageing and the Ministerial Council before 30 June 2013. A person to conduct the review must be appointed by the Minister for Health and Ageing in consultation with the Ministerial Council.

The Ministerial Council must consider the report and make recommendations about any changes, including to legislation and the HI Service Operator or the operation of the Service.

It is expected that the Ministerial Council will have a significant role to play while the HI Service is being established, particularly as it will consider the proposed regulations prior to the HI Service commencing operations and any proposed state or territory laws which will put in place limits on the handling of healthcare identifiers for their public sector organisations.

4.3 Relationship to the national eHealth agenda and electronic health records

Improving the management and communication of patient health information through eHealth has been identified as a key reform for building an effective and sustainable health system.

The National E-health Strategy published by Health Ministers in December 2008, sets out how eHealth can improve healthcare and support reform priorities by:

- enabling access to more reliable patient health information across the continuum of care;
- enabling consumers to more actively participate in their healthcare through improved access to health information;
- reducing the amount of time spent on manual processes associated with coordinating treatment; and
- improving clinical and administrative decision-making.

E-Health implementations overseas demonstrate significant direct productivity improvements for specialists, GPs and pharmacists by helping to automate routine interactions between care providers such as referrals, prescriptions, and image processing. For example:

- e-prescription implementations in Sweden, Boston and Denmark reduce provider costs and save time to improve productivity per prescription by over 50%³
- e-referrals in Denmark reduced the average time spent on referrals by 97%⁴ by providing more effective access to patient information for both clinicians⁵
- Test ordering and results management systems reduce time spent by physicians chasing up test results by over 70% in implementations in America and France.⁶

The Strategy recommends the development of solutions for e-prescriptions, e-referrals and electronic test ordering to minimise the time spent by healthcare providers in discovering information known by other providers. Attaching health information to the person rather than the place of care leads to more patient-centered care.

The estimated benefit for healthcare providers in terms of time, reflecting a conservative 10% reduction of total time spent on messaging costs for clinical and ancillary staff and improvements from improved messaging quality, is in the order of \$2.8 billion in net present value over ten years.⁷ The HI Service is an important step in realising these benefits.

The availability of healthcare identifiers is likely to lead to efficiencies in booking appointments, ordering treatments and sharing information across the health sector. It is estimated that 25% of a clinician's time is spent seeking information about the patient⁸ and 35% of referrals are inappropriate due to insufficient direct access to specialists and insufficient information being passed from primary care to specialists.⁹

³ Karl A Stroetmann KA, Jones T, Dobrev A, Stoetmann VN, 'An Evaluation of the Economic Impact of Ten European E-Health Applications', 2007, as quoted in Deloitte, *National E-Health Strategy*, 2008, page 93.

⁴ Ibid.

⁵ Australian Audit Commission, *For Your Information* Canberra, 1995, as quoted in Deloitte, *National E-Health Strategy*, 2008, page 93.

⁶ G J Elwyn and N C H Stott, 'Avoidable Referrals? Analysis of 170 consecutive referrals to secondary care,' *BMJ* 309, 3 September 1994, as quoted in Deloitte, *National E-Health Strategy*, 2008, page 93.

⁷ Deloitte, *National E-Health Strategy*, 2008, page 93.

⁸ Australian Audit Commission, *For Your Information* Canberra, 1995, as quoted in Deloitte, *National E-Health Strategy*, 2008, page 93.

⁹ G J Elwyn and N C H Stott, 'Avoidable Referrals? Analysis of 170 consecutive referrals to secondary care,' *British Medical Journal* 309, 3 September 1994, as quoted in Deloitte, *National E-Health Strategy*, 2008, page 93.

The use of identifiers will also help to reduce time and cost spent on unnecessary or duplicated treatments such as diagnostic tests. Studies in hospital environments indicate unnecessary duplicate testing occurs at a rate of 9% to 17%. Based on an estimate of \$36 as the mean cost of tests prevented and a conservative estimate of a 15% reduction in tests, e-health could realise benefits of around \$800 million in net present value over ten years.¹⁰

The development of national eHealth initiatives and the operation of the HI Service will also be supported by the NPA for eHealth which was signed by the COAG on 7 December 2009.

This agreement sets out jurisdictional responsibilities with regards to eHealth and will provide the long term support required to develop national eHealth initiatives, including an electronic health records system.

The National Health and Hospitals Reform Commission Chair, Dr Christine Bennett, stated in April 2009 that an electronic health record is arguably the single most important enabler of truly person-centered care. The Commission also noted NEHTA's findings that 82% of consumers support the establishment of an electronic health record.

A barrier holding back eHealth and a national electronic health records system has been the absence of some basic infrastructure. To address this, the Commonwealth, and state and territory governments have jointly funded NEHTA to develop those foundation elements, which include:

- a national healthcare identifier capability for both patients and health care providers;
- national standards for secure messaging and clinical terminologies; and
- clinical communications capabilities focused on medication management, and transfer of images and pathology results and referrals.

With these foundations in place, governments will be in a better position to implement future national eHealth initiatives, including the development of a national electronic health records system.

No final government decision has been made at this time although it is clear that any proposed electronic health record will be voluntary and individuals would be able to choose which health events are added to the record and who can access the record.

Extensive public consultation would be undertaken to inform the development and implementation of a future national electronic health record system. Consultation would cover issues such as privacy safeguards, how sensitive information is controlled, clinical provenance, legislative and governance arrangements and specific consumer and health sector requirements.

¹⁰ References cited in Deloitte, *National E-Health Strategy*, 2008, page 94.