



THE LAW SOCIETY
OF NEW SOUTH WALES

13 February 2012

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

By email: community.affairs.sen@aph.gov.au

Dear Committee Secretary,

Personally Controlled Electronic Health Records Bill 2011

The Law Society's Medico Legal Liaison Committee (the Committee) thanks the Senate Community Affairs Committee for considering its submission.

The Committee consists of NSW legal practitioners in conjunction with members of the medical profession in NSW. The Committee therefore allows for a formal liaison between the two professions.

The Committee has discussed the Senate Community Affairs Committee inquiry into the *Personally Controlled Electronic Health Records Bill 2011* (the Bill) and makes the following comments:

- The Committee has general concerns regarding privacy in an electronic medical record system. A primary focus of the Bill should be to ensure that privacy is of paramount concern and to ensure that a patient's electronic medical records are only available to the appropriate people.
- The Committee is concerned about the effect that patient controlled deletions from medical records will have on the integrity of the medical records. There are various aspects to this concern. From the medical perspective, medical and health care practitioners must have confidence in the accuracy and completeness of the medical records. The medical practitioner may subsequently make clinical decisions based on the reliability of the electronic record. From a legal perspective, solicitors dealing with medico legal issues, particularly in the personal injury space, must be confident in the completeness of the medical records on which they rely. This is true when making representations to both the client and Court.
- The Committee believes that the Bill must consider the distinct ramifications of patient controlled records in particular circumstances. For example, the concerns of patient controlled records regarding a patient being treated for mental health are unique to themselves. Additionally, patient controlled medical records where the patient is a minor are also unique.

- The Committee has concerns regarding what happens to information once deleted from the electronic records.

Please feel free to contact the Law Society should you wish to discuss the matter further.

The policy lawyer with responsibility for this matter is _____, who can be contacted on _____ or by email at _____.

Yours sincerely,

Justin Dowd
President