



## Premier of Western Australia

Our Ref: 24-76914

Ms Toni Matulick  
Inquiry Secretary  
Australian Senate  
Community Affairs Legislation Committee  
House of Representatives  
Parliament House  
CANBERRA ACT 2600

Dear Ms Matulick

### **National Health Reform Amendment (National Health Performance Authority) Bill 2011**

Thank you for your email dated 7 April 2011, inviting the Western Australian Government to make a submission to the Senate Inquiry into the National Health Reform Amendment (National Health Performance Authority) Bill 2011 (the Bill).

As you may be aware, the Western Australian Minister for Health, Dr Kim Hames MLA has already written to his Commonwealth counterpart, the Minister for Health and Ageing Nicola Roxon, outlining the significant flaws arising from the way in which the Bill has been drafted, and notably, in the absence of any consultation with State and Territory Governments.

Western Australia supports in principle the establishment of a National Health Performance Authority. This is premised on the belief that the collection of robust and meaningful data for public reporting is an important mechanism to drive greater transparency and improvement in the quality and efficiency of hospital and primary care services at a national level. Importantly, it should form an important element in implementing the health reforms agreed by the Council of Australian Governments (COAG).

As I understand it, the intention of the Commonwealth Bill is to give effect to the relevant provisions contained in the National Health and Hospital Network Agreement (NHHNA) and the Heads of Agreement (HoA) as agreed by COAG. It is on this basis that Western Australia supports the establishment of the National Health Performance Authority (NHPA).

However, in drafting the legislation, I believe the Commonwealth has gone beyond what is contemplated as the role and function of the NHPA in the HoA I signed at the COAG meeting on 13 February 2011. Further, the Bill undermines the States' and Territories' role as system managers of the public hospital system with the potential to significantly disrupt and destabilise the on-the-ground operations of the State's hospitals and health services.

Consequently, the Commonwealth Bill should not proceed further and must be amended in accordance with the agreed COAG position.

Western Australia has major concerns with the Bill in its current form as it relates to the scope of the functions to be performed by the NHPA, the scope of the performance reporting and consultation in relation to performance assessment and reporting by the NHPA of the State's hospitals and other health service providers.

Firstly, in relation to the scope and functions of the NHPA, the Bill as currently drafted allows for the possibility that the real work of the NHPA could be broadened in scope beyond that contemplated by the HoA. Clause 60(1)(f) of the Bill allows for the Commonwealth Minister, without consultation with his or her State and Territory colleagues, to extend the functions to be performed by the NHPA by giving written direction to the Authority. The NHPA including its functions and members, is being established on the basis of joint agreement at COAG. Any subsequent expansion or changes to the NHPA must also be by agreement with COAG, rather than unilaterally by the Commonwealth Minister.

Secondly, with regard to the formulation of performance indicators, clause 60(1)(c) of the Bill grants the NHPA the authority to formulate performance indicators to be monitored and reported on by the Authority. However, the Bill provides no mechanism by which States and Territories, as system managers of the public hospital system, will be engaged in determining the scope of performance reporting by a Commonwealth statutory authority in relation to core State and Territory service delivery responsibilities.

In addition, the Bill effectively pre-empts work concurrently being undertaken by jurisdictions to develop a Performance and Accountability Framework, which will include determining a process for assessing different levels of performance. To ensure consistency with the HoA and the NHHNA, the NHPA should discharge its functions by referring solely to the indicators set out in the proposed Performance and Accountability Framework, which will be agreed by COAG in due course.

Finally, in relation to performance assessment and reporting by the NHPA of the State's hospitals and other health service providers, clause 62(2) of the Bill requires that where poor performance has been identified the NHPA will directly consult with the management of the relevant Local Hospital Network (LHN) on draft reports involving an assessment of poor performance. However, the NHPA does not have a performance management role under the NHHNA, and in this respect the Bill is inconsistent with the COAG agreements. Further, such an approach risks a fragmented and incomplete response from the State and increases the risk of adverse public comment. Therefore, consultation and liaison with the States and Territories should be at system level, and should apply to all reports to be published by the NHPA, and not be limited to reports regarding poor performance only. Provisions in the Bill that prescribe direct contact between the NHPA, LHNs and the individual hospitals should be removed. Poor performance of LHNs and individual hospitals must continue to be addressed through ongoing performance management arrangements with the States and Territories and not through the NHPA.

I urge you to consider changes to the legislation that addresses these and other issues that will be brought to your attention in the course of the Senate Inquiry so as to ensure that the Bill, as passed by the Australian Parliament, is fully consistent with the intent specified in the Heads of Agreement, signed by COAG on 13 February 2011, and, importantly that it provides a workable set of arrangements for health system performance monitoring and reporting.

Yours sincerely

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Colin Barnett MLA  
**PREMIER**

28 APR 2011