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09/132

25 May 2009

Mr Elton Humphery  
Committee Secretary  
Senate Standing Committee on Community Affairs  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Mr Humphery

The AMA thanks the Senate Community Affairs Committee for providing the opportunity to comment on the Privacy Impact Assessment on the Increased MBS Compliance Audits Initiative issued by the Department of Health and Ageing on 1 May 2009.

The Privacy Impact Assessment (the PIA) does not address the AMA concerns with the exposure draft of the Health Insurance Amendment (Compliance) Bill 2009 (the Bill) as outlined in our previous submission to the Committee of 24 April 2009.

It maintains the incorrect premise that administrative documents will satisfy compliance concerns (see paragraphs 81 to 85). You will recall our evidence to the Committee on 6 May 2009 that, in almost every case, the information that will be relevant to substantiating the Medicare benefit will be contained in the patient medical record. The Privacy Impact Assessment does not go to this threshold issue of access to the patient's personal medical record. The doctor will have to provide the patient's clinical notes thus breaking the confidentiality of that record. The patient's privacy will be compromised.

The PIA does not provide any details of the information that will be sought by Medicare Australia when conducting an audit, or the circumstances under which various types of information will be required to verify Medicare item requirements have been met.

The Australian Taxation Office (ATO) has been able to list the many and varied types of information that would substantiate the taxation deductions that can be claimed by taxpayers. It will not be possible to undertake a proper assessment of the full privacy impact of this measure unless Medicare Australia undertakes a similar approach to the ATO to clearly set out what information will be required to substantiate Medicare benefits.

Further, consistent with concerns we raised in our earlier submission, there is no detail in the PIA about how Medicare Australia audit officers will make decisions that billing was incorrect on the basis of the documents provided by the doctor.

We are concerned that the PIA also makes a patronising assertion about how patients might react if they were notified that information from their medical records were provided to Medicare Australia (paragraph 100). Further, we strongly object to the assertion at paragraph 135 that practitioners would attempt to convince patients to withhold their consent to the release of the personal information to Medicare Australia. There is no basis for this statement except to reveal the “guilty until proven innocent” approach taken by Medicare Australia in its compliance activities.

Finally, I would like to take the opportunity to draw the Committee’s attention to a measure in the 2009-10 Federal Budget to demonstrate the effect the Bill will have on the provision of patient information to Medicare Australia. Under the Better Access Initiative a new Medicare item for general practice mental health care plans will be introduced (Budget Paper No. 2, page 288). We understand that in order for Medicare benefits to be payable for this service, GPs will be required to document the diagnosis of a mental health disorder in each GP Mental Health Treatment Plan. Therefore, if the GP is audited for these items, he or she will be asked by Medicare Australia to produce a document to verify the item requirements have been met, the doctor will have to provide the actual treatment plan.

Clearly, the detailed mental health disorder diagnosis will be able to be sighted by Medicare Australia audit officers. Given the sensitivity and potential stigma associated with mental illness, we believe there will be significant concern amongst patients at the disclosure of this type of clinical information.

Yours sincerely

A handwritten signature in black ink, reading "Rosanna Capolingua". The signature is written in a cursive, flowing style.

Dr Rosanna Capolingua  
President

rc:bh