



**Australian  
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Foundation**

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## **MEDIA RELEASE**

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### **EXPOSURE DRAFT OF THE HEALTH INSURANCE AMENDMENT (COMPLIANCE) BILL 2009**

**The draft Bill 2009 indicates the erosion of patient health privacy rights as part of expanded Medicare audits.**

The Australian Privacy Foundation (APF) is generally supportive of government moves to ensure taxpayer funds are well spent, but has expressed serious disappointment that key elements of the draft bill propose that clinical health information can be disclosed without informed patient consent for audit purposes.

In recent meetings with the Australian Privacy Foundation (APF), Medicare officials made two key points. Firstly, the officials claimed the bill simply clarifies existing powers rather than extends them. Secondly, Medicare officials indicated that they will instruct doctors not to provide clinical information for audit. There is evidence to suggest that this may not be the case though.

Hence, the APF asks:

1. Why do we need the Amendment Bill at all? Does the Bill, as has been claimed by some, change the audit process so that any bureaucrat can review detailed patient information rather than qualified clinicians as is currently the case?
2. The draft legislation does not reflect the Medicare undertakings with regard to the provision of clinical information for audit purposes.

The APF is concerned by the continued erosion of patient health privacy rights and by what appears to be an unacceptable imposition on Australian society

**APF position statement:** attached

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Australian Privacy Foundation (APF) Position Statement  
Exposure draft of the Health Insurance Amendment (Compliance) Bill 2009  
(To give effect to the Increased Medicare Benefits Schedule Compliance Audits)

1. Detailed patient health information **must not** be disclosed without consent
2. Medicare officials, during recent meetings, claim the law simply clarifies existing powers rather than extends them. The APF maintains that unless it possesses evidence of collusion between patient and provider to defraud, Medicare needs consent rather than clarification for access to any further clinical detail.
3. If the draft Bill simply clarifies rather than extends Medicare rights and in view of the increased and new burden on citizen information, why do we need the Amendment Bill at all? Does the Bill, as has been claimed by some, change the process so that any bureaucrat can review patient information rather than professional clinicians as is currently the case?
4. In recent meetings with the APF, Medicare officials indicated they will instruct doctors not to provide clinical information for audit. The draft legislation does not reflect that undertaking.
5. The disclosure even of contact details and the nature of a diagnostic test are sufficient cause to spark an Australian black market economy in health services, as individuals with genuine privacy concerns seek alternatives that do not involve the disclosure of sensitive information.
6. The federal government is proposing other reductions in the protections for health care data as well. Of greatest concern is that its national electronic health record (e-health) strategy involves widespread sharing of a centralised record. Such a 'honeypot' would attract a legion of public and private sector bees, not to mention hackers and voyeurs.
7. This draft Bill confirms again the mess that characterises Australian attempts to devise a unified national e-health implementation, despite the hundreds of millions of dollars already spent on it. We need a widely-accepted and understood national framework for e-health which sets out the various possible roles and uses, and has clear rules determining which roles can view data for what purpose, rather than continue working with a set of ambiguous and loophole ridden principles that can only be interpreted by lawyers.
8. Ideally, for patient trust and so improved public health outcomes, e-health data should be under the control of and visible to the patient. This is possible if designed in from the outset. The old legal decision that paper patient records belong to the doctor rather than the patient no longer need apply for access to electronic data.
9. Governments must stop pursuing grand IT solutions that invariably hit major problems and cost overruns as well as breaching patient privacy, and must instead focus on practical approaches to patient care, recognising that treatment is and always will be highly dispersed, and that the data is highly sensitive.