



Office of the Australian Information Commissioner
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NATIONAL HEALTH (PRIVACY) RULES 2018 REVIEW

The Australian Institute of Health and Welfare (AIHW) appreciates the opportunity to provide comments in relation to the National Health (Privacy) Rules 2018 review.

The Rules as currently drafted do not impact directly on the AIHW, other than restating, as they are required to do, the prohibition in s 135AA of the *National Health Act 1953* against storage of MBS and PBS claims information in the same database.

The AIHW acknowledges that while s 135AA remains in force there is a continued requirement for new Rules to replace the current version following their sunset on 1 April 2022.

AIHW has over many years made extensive use of MBS and PBS claims information, provided on a project-by-project basis by the Department of Health and Services Australia, in the Institute's own health-related research and in assisting the work of external researchers. More recently, the AIHW has been provided with copies of this data for specific ranges of years, as well as the Medicare Consumer Directory. All AIHW uses of this information is authorised by Public Interest Certificates issued by the Department of Health.

AIHW's work, and that of the Australian Bureau of Statistics (ABS) in this regard, is acknowledged in the Consultation Paper, which notes that 'the AIHW and the ABS – two of the foremost accredited integrating authorities in Australia – have been increasingly involved in data linkage for policy analysis, research and statistical purposes, often involving MBS and PBS claims information.'

The Department of Health and Services Australia, as the agencies primarily affected by the current version of the Rules, will no doubt provide their own comments to the Review. From a broad policy perspective, however, the AIHW would not wish to see any amendment to the Rules, including any extension to other agencies, which would reduce their ability to make productive use of the MBS and PBS claims data for health-related research projects.



AIHW use of this information is already subject to many safeguards, which extend beyond the protections afforded by the Rules. This includes strict compliance with the *Privacy Act 1988* and associated Australian Privacy Principles, oversight by the AIHW Ethics Committee, (which operates under its own set of regulations, and in full compliance with the requirements of the National Statement on Ethical Conduct in Human Research).

In addition, the AIHW has implemented a sophisticated and highly-regarded Data Governance Framework designed to ensure accountability, transparency and best practice in its management of its data holdings.

The AIHW notes a number of recent developments in national data governance, highlighted in the Consultation Paper, which should provide further confidence in the oversight of and tools available to Commonwealth research agencies in their management of sensitive information such as the MBS and PBS claims data. These include the Data Availability and Transparency Bill, the current review of the Privacy Act, and recent amendments to the National Health Act which allow data-matching.

Together, these should provide a more sophisticated environment for the storage and management of information data assets better able to balance the public interest in the use of this information with the fundamental need to maintain public confidence in the use of their data.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Barry Sandison', written in a cursive style.

Barry Sandison
Chief Executive Officer
8 June 2021