

13 November 2015

Katerina Pavlidis
Adviser, Regulation and Strategy
Office of the Australian Information Commissioner
GPO Box 5218
Sydney, NSW 2001
consultation@oaic.gov.au

Dear Ms Pavlidis,

Re: RACGP submission on OAIC consultation – revised PCEHR (Information Commissioner Enforcement Powers) Guidelines

The Royal Australian College of General Practitioners (RACGP) welcomes the opportunity to provide comment to the Office of the Australian Information Commissioner (OAIC) on the *revised PCEHR (Information Commissioner Enforcement Powers) Guidelines*. The RACGP supports the need for guidelines and has previously provided feedback to the OAIC on the *Personally Controlled Electronic Health Records (PCEHR) System – OAIC Enforcement Guidelines 2012*. We raise similar concerns now as those raised in 2012 in relation to the impact on general practice and individual general practitioners (GPs).

The RACGP is confident that the OAIC has provided robust legal interpretation of the PCEHR Act 2012 and the 2014 reforms to the Privacy Act 1988, and appreciates that content has been added to reflect the new enforcement powers conferred on the Information Commissioner by the 2014 Privacy Act reforms. However, we emphasise that these enforcement guidelines do not provide a ‘user-friendly’ or ‘plain language’ interpretation for those entities that will need to comply with the legislation. The revised version of the enforcement guidelines remains legalistic and complex.

There still remains a need for clarity as to how these legislative tools will alter or affect clinical decisions when general practitioners participate in the eHealth record system. GPs will need guidance to fully understand the information flow, complaints process, penalties, determinations and dispute resolutions. The eHealth record system and the legal instruments need to be designed to support quality care and provide clinicians with protection rather than punitive action. There is a clear need for education to ensure that health professionals are fully cognisant of their responsibilities in applying these legislative instruments in the delivery of healthcare.

GPs require confidence that the eHealth record system will provide benefits to patients and are protective of all who participate in the system. Punitive legal actions from a complaint process will not provide GPs with the confidence to participate. Procedural fairness needs to apply as clinicians will be working in a care delivery environment that has not been tested in the ‘real world’. The enforcement guidelines in the current format do not recognise the clinical and business workflows of general practice and the relationships between patients, GPs and healthcare provider organisations.

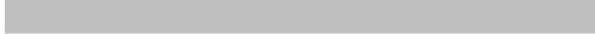
The RACGP will be pleased to continue working with the OAIC to assist with the development of informative privacy resources for healthcare providers and consumers. Should you require any further



RACGP

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information please do not hesitate to contact Ms Joanne Hereward, Program Manager – eHealth at



Yours sincerely,



Dr Frank R Jones
President