

Electronic health records face privacy issues

A GP in the United Kingdom, with a special interest in patient privacy and confidentiality law, has called for a judicial review of the government's consent plans for the UK National Health Service (NHS) Care Records Service – electronic health records system. He makes a strong case that there are serious risks for both civil liberties and public health, and that current Record Guarantees do not provide sufficient safeguards to the extent that it may be contravening both the Data Protection Act and Human Rights legislation.

This international item of concern may well impact on privacy and confidentiality issues in Australia with the current implementation of HealthConnect; a national system of electronic health records that aims to improve the flow of information across the Australian health sector, with NSW Health currently trialing a state scheme.

The NSW Government has committed \$19.4 million to the Electronic Health Record (EHR) system, known as Health e-Link. It aims to improve the coordination of health care delivery by giving health professionals a single point of access to view clinical information about a patient. This new system plans to give doctors and health care workers key information for continuity of patient care, and give health consumers an ability to view and add to their records on-line and become more involved in the management of their health care.

NSW Pilots to begin

The planning for the new NSW Health e-Link Electronic Health Record system is underway with the first phase of this project being rolled out in two pilot programs; the first pilot in greater Western Sydney focusing on child health and the second pilot in the Hunter region for people over 65, with a chronic disease. It should be noted that blocking of sensitive health information will not be implemented in the early stages of the pilots, thus consumers in these areas who may be concerned about this information being seen by clinicians in the Health e-Link pilot projects are able to opt out.

Opt-in and Opt-out models

NSW Health has chosen an opt-out model for their trial for financial reasons but NCOSS has argued that the opt-in model can be run at the same cost and still give people the opportunity to consider their options. As a result of discussions with other consumer groups, NCOSS supports an opt-in model as the preferred method of participation that more closely complies with privacy legislation. However, at an NCOSS Electronic Health Records (EHR) Forum in May 2005 with NSW Health, many participants expressed concern that the 'opt-out model, may disadvantage those who were the least able to exercise an effective choice.

Privacy and confidentiality

While the new Health e-Link system has in-built security systems, patient privacy and confidentiality concerns remain. It has been acknowledged that there are particular groups with legitimate concerns and that there does need to be strong protections in place within the EHR. These and other issues will continue to be raised by NCOSS who is a member of the Health e-Link Steering Committee and who has also been asked to send a representative to sit on the monitoring/evaluation committee for the pilots.

Also at the NCOSS HER Forum, other areas of concern that were addressed included:

- Health e-Link will know if people have been inappropriately accessing their EHR as it can pick up the patterns of use. There are also penalties for improper access and use of a person's EHR.
- The Healthelink application will be monitored for inappropriate and unauthorised access.
- Eventually access to sensitive information will be able to be limited so that consumers will be able to choose what information they would like to keep private. Emergency departments will be able to access all areas of the EHR but in certain areas there may be only certain sections that they can see and there may be restricted areas such as sensitive files.

However there is the possibility for a 'break the glass' function in an emergency to access that sensitive information.

- If a consumer does not want information sent to their EHR then they will need to opt-out. The consumer cannot choose on an encounter basis what information is sent to the electronic health record and what is not.

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