

20 August 2010

Committee Secretary  
Senate Standing Committee on Community Affairs  
Department of the Senate  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Dear Sir/Madam,

### **Inquiry into the National Health and Hospitals Network Bill 2010**

Please accept the following submission to the Inquiry into the National Health and Hospitals Network Bill 2010 (“the Bill”).

This submission concerns the Bill’s consultation requirements for the future Australian Commission of Safety and Quality in Health Care (“the Commission”). In our view, clauses 10(2) and 11(2) of the Bill do not adequately include health care consumers in the consultation process. In this submission, we compare the Bill to comparable legislation in the United Kingdom, which is significantly more inclusive.

#### **1. Bill clauses considered in this submission**

- 1.1. Clause 10(2) of the Bill relates to consultation around standards, guidelines and indicators. The Commission is required to consult with clinicians, lead clinician groups, the heads of relevant state/territory health departments, stakeholders, and the public.
- 1.2. Clause 11(2) of the Bill relates to consultation around model national accreditation schemes. The Commission is required to consult with the heads of relevant state/territory health departments, stakeholders, and the public.

## 2. Involvement of health care consumers in consultations

- 2.1. The two consultation clauses in the Bill require “the public” be involved. In our view, this construction does not adequately provide for the inclusion of health care consumers in the Commission’s consultative processes.
- 2.2. The benefits of involving those with direct experience of health service provision was recently summarised in an international systematic review.<sup>1</sup> Consultation with health consumers assists in the identification of the issues important to health service users, and also helps to communicate those issues more effectively to other consumers.
- 2.3. For the purposes of the Bill, health care consumers are merely a sub-set of “the public” that the Commission will be required to consult with. The Bill is actually internally inconsistent on this point; while these clauses refer to “the public”, clause 20(3)(k) refers to “the interests of consumers” (rather than “the public”) as being represented on the Commission’s Board.
- 2.4. While it is reasonable to expect that the Commission would consult with health care consumers as “the public” under the current clause in the Bill, the Community Affairs Committee should note that in addition to its internal inconsistency, the Bill is not in keeping with international standards. Comparable legislation in the UK is far more specific than the Bill in targeting consultations with consumers.
- 2.5. In the UK, the Care Quality Commission (CQC) establishes and monitors health care quality and safety standards. The CQC has broad regulatory and investigatory powers over health services in relation to these standards (a significant difference to the Commission established by the Bill). The CQC’s enabling legislation, the *Health and Social Care Act 2008 (HSCA)*, states that the CQC’s objective is to “is to protect and promote the health, safety and welfare of people who use health and social care services” (*HSCA s 3(1)*).
- 2.6. In performing its functions, the CQC is required to have regard to the “experiences of people who use health and social care services and their families and friends” (*HSCA s 4(1)(b)*).
- 2.7. The *HSCA* places heavy emphasis on user involvement, and requires that the CQC prepare a statement on how “service users and carers” are to be consulted regarding the exercise of CQC functions (*s 5(1)(b)*). The CQC’s eventual statement on user involvement made under *HSCA s 5(1)(b)*, *Voices Into Action*, gives more specific details on how the CQC will consult with users.
- 2.8. While there are many differences between the Commission and the CQC, both seek to involve relevant groups in their consultative processes. The UK legislation is far more specific in its requirements for consultation, and such legislative specificity is appropriate given the centrality of consumers (patients/“service users” or carers) to health care quality and safety.
- 2.9. In our view, the UK legislative model is particularly commendable for mandating consultation with carers, a group whose views are often only considered in an incidental fashion (if at all).

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<sup>1</sup> Nilsen ES, Myrhaug HT, Johansen M, Oliver S, Oxman AD. Methods of consumer involvement in developing healthcare policy and research, clinical practice guidelines and patient information material. *Cochrane Database of Systematic Reviews* 2006, Issue 3. Art. No.: CD004563.

## Summary

We submit to the Community Affairs Committee that the Bill's non-specificity on consumer and carer involvement makes it deficient when compared to the UK legislation, and not in keeping with current best practice. While involvement of the broader public is to be encouraged, the consultation requirements should actively seek relevant consumer and carer input. Health care consumers and carers should not be relegated to "stakeholders" under clauses 10(2)(d) and 11(2)(b); rather, they should be recognised by the Bill in their own right.

Please let us know if we can be of further assistance to the Inquiry. We thank the Committee for the opportunity to make this contribution and for considering this submission.

Yours sincerely

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