



**Submission to the Inquiry into the *National Health Reform Amendment (Independent Hospital Pricing Authority) Bill 2011***

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The Consumers Health Forum of Australia (CHF) is the national peak body representing the interests of Australian health care consumers. CHF works to achieve safe, quality, timely healthcare for all Australians, supported by accessible health information and systems.

CHF welcomes the opportunity to provide comment to the Senate Finance and Public Administration Legislation Committee's Inquiry into the *National Health Reform Amendment (Independent Hospital Pricing Authority) Bill 2011*. This Bill establishes the Independent Hospital Pricing Authority. This is an area of considerable importance to health consumers, who have a dual interest in the efficient distribution of health funding: as users of those services, and as taxpayers.

CHF welcomes the establishment of the Independent Hospital Pricing Authority, as we anticipate that it should result in the introduction of improved transparency and efficiency in the pricing of hospital services. CHF particularly welcomes provisions outlining the process for managing cost-shifting and cross-border disputes, which should lead to a reduction in cost-shifting across jurisdictions.

However, CHF has concerns about some aspects of the Bill. These concerns relate to the sections of the Bill on the Independent Hospital Pricing Authority. We have previously provided comments on the legislation relating to the establishment of the Australian Commission on Safety and Quality in Health Care as a permanent body, and the establishment of the National Health Performance Authority, and have no additional comments arising out of the amendments in this Bill.

CHF's primary concern is that, although the legislation sets out the membership of the Pricing Authority and supporting committees, there is no reference anywhere in the legislation to how consumers will be engaged in the work of the Authority. Given that the legislation requires the establishment of a Clinical Advisory Committee to support the work of the Authority, we consider that the omission of consumer consultation structures is a significant oversight.

Our specific concerns are:

- Appropriate mechanisms must be in place for genuine consumer engagement and involvement in the work of the Pricing Authority, ideally through the establishment of a Consumer Advisory Committee under Section 205.
- Section 144 should include a requirement for the Pricing Authority to include a member with expertise or knowledge in consumer experiences of health care.
- Section 211 should provide greater clarity about whether comments from Health Ministers on Pricing Authority reports will influence the content of the final report that is released, and whether Ministers' comments will be made publicly available.
- Section 222 should specify that a person must provide *informed* consent before information relating to the affairs of that person is disclosed.

- Section 228 should specify that a patient must provide *informed* consent before the Independent Hospital Pricing Authority, National Health Performance Authority or the Australian Commission on Safety and Quality in Health Care may publish or disseminate information that is likely to enable the identification of that patient.

Our concerns are outlined in more detail below.

## Areas of concern

### Section 131: Functions of the Pricing Authority

CHF notes that Section 131 (3) of the Bill requires that:

*In performing its functions, the Pricing Authority must have regard to the following:*

*(a) Relevant expertise and best practice within Australia and internationally [...].*

**CHF argues that ‘relevant expertise’ must include the expertise of health consumers, as the users, and ultimately the funders, of the health system.** The views of consumers provide an important balance to the views of other stakeholders, including clinicians, health economists and state and territory bureaucrats. There is increasing recognition, both within Australia and internationally, that involving consumers in healthcare policy and decision-making leads to better outcomes for both health consumers and the health system as a whole.

### Section 144: Appointment of members of the Pricing Authority

CHF notes that the Pricing Authority will consist of a Chair, a Deputy Chair and seven other members. Section 144 states that at least one member of the Performance Authority must have substantial experience or knowledge and significant standing in the health care needs of people living in regional and rural areas, and the provision of health care services in regional or rural areas. While we recognise the unique challenges in rural and remote health care delivery, and support the inclusion of a member with this expertise, **CHF also argues that the Pricing Authority should include a member with expertise or knowledge in the consumer experience of health care.**

### Part 4.10: Clinical Advisory Committee

CHF notes that the legislation establishes a Clinical Advisory Committee to advise the Pricing Authority, to comprise a Chair and at least eight other members. CHF further notes that Section 179 (3) specifies that ‘*A person is not eligible for appointment as a Clinical Advisory Committee member unless the person is a clinician*’.

Given that this central advisory structure to the Pricing Authority excludes health consumers from its membership, **CHF seeks the inclusion in the legislation of equivalent, or alternative, advisory structures that include the views of health consumers.**

## Section 205: Committees

Section 205 allows the Pricing Authority to ‘*establish committees to advise or assist it in the performance of its functions*’. **CHF recommends that the legislation requires the establishment of a Consumer Advisory Committee, to supplement the role of the Clinical Advisory Committee.** CHF notes, however, that any Consumer Subcommittee that is established must be more than tokenistic, and be recognised as providing valuable policy input to the Pricing Authority.

CHF also notes that, under Section 191, the Clinical Advisory Committee may establish sub-committees ‘*to advise or assist the Clinical Advisory Committee in the performance of its functions*’. While this would be a possible mechanism for consumer advice and engagement, CHF would prefer a model that does not place consumer views as subsidiary to those of clinicians.

## Section 211: Minister and State/Territory Health Ministers comment before public reports

CHF notes that section 211 requires that the Pricing Authority must not release a report publicly unless the report has been provided to the Minister and each State/Territory Health Minister, and a period of 45 days in which Ministers may comment on the report has elapsed. **CHF seeks clarification about whether the comments of Ministers will influence the final report that is released to the public, and whether the comments of Ministers on the report will also be made public.** In the interests of transparency, it is important that health consumers have access to complete and uncensored information on hospital pricing and any jurisdictional disputes that have arisen.

## Section 222: Disclosure with consent

CHF notes that an official of the Pricing Authority may disclose protected Pricing Authority information relating to the affairs of a person if that person has consented to the disclosure. **CHF argues that the legislation should specify that this must be *informed consent***, so that the person is fully aware of the implications of providing consent.

## Section 228

CHF welcomes the provisions applying to the Australian Commission on Safety and Quality in Health Care, the National Health Performance Authority and the Pricing Authority, requiring that the bodies must not publish or disseminate information that is likely to enable the identification of a particular patient. CHF notes that these provisions do not apply if consent has been provided. **CHF argues that the legislation should specify that this must be *informed consent***, so that the consumer or another person who is able to give consent is fully aware of the implications of providing consent.

CHF notes that the *National Health and Hospitals Network Bill 2010* was amended in the Senate to include reference to *informed consent* in the relevant provisions of that Bill;<sup>1</sup> it is appropriate that this is reflected in the current Bill.

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<sup>1</sup> Commonwealth of Australia, *Parliamentary Debates*, Senate, 3 March 2011, page 35, Senator Siewert (Senator for Western Australia).

## **Other comments**

CHF welcomes Section 225, which requires the Pricing Authority to publish its workplan on its website each year and invite comment. **CHF recommends that comment on the workplan is actively sought from consumer stakeholders.**

## **Conclusion**

CHF welcomes the introduction of legislation to establish the Independent Hospital Pricing Authority, but, as outlined in this submission, we have some concerns about some of the current wording of the legislation. CHF would like to see the inclusion of rigorous structures for consumer involvement in the work of the Pricing Authority; inclusion of a person with expertise in the consumer experiences as a member of the Pricing Authority; and reference to *informed* consent in relation to confidentiality. We support the passage of the Bill with appropriate amendments that address our concerns.

CHF would welcome the opportunity to expand on these comments at a public hearing.



The Consumers Health Forum of Australia (CHF) is the national peak body representing the interests of Australian healthcare consumers. CHF works to achieve safe, quality, timely healthcare for all Australians, supported by accessible health information and systems.

CHF does this by:

1. advocating for appropriate and equitable healthcare
2. undertaking consumer-based research and developing a strong consumer knowledge base
3. identifying key issues in safety and quality of health services for consumers
4. raising the health literacy of consumers, health professionals and stakeholders
5. providing a strong national voice for health consumers and supporting consumer participation in health policy and program decision making

CHF values:

- our members' knowledge, experience and involvement
- development of an integrated healthcare system that values the consumer experience
- prevention and early intervention
- collaborative integrated healthcare
- working in partnership

CHF member organisations reach thousands of Australian health consumers across a wide range of health interests and health system experiences. CHF policy is developed through consultation with members, ensuring that CHF maintains a broad, representative, health consumer perspective.

CHF is committed to being an active advocate in the ongoing development of Australian health policy and practice.