

EXPLANATORY STATEMENT

Healthcare Identifiers Act 2010

Healthcare Identifiers Amendment (Health Facilitation Programs) Regulations 2025

Purpose and operation

The *Healthcare Identifiers Amendment (Health Facilitation Programs) Regulations 2025* (the instrument) provides authorisation for the handling of healthcare identifiers and associated identifying information by health programs, including their supporting technical solutions.

The instrument authorises a healthcare provider to disclose their own individual healthcare provider identifier (HPI-I) for use in the administration of health-related programs, schemes or incentives (a ‘health facilitation program’). The intent is, that where a program is established to facilitate the delivery of health services to particular healthcare recipients or classes of recipients, the healthcare identifier of the provider will be able to be used as part of administering the program. The delivery of the health facilitation program may be aided by the use of an IT solution that uses the healthcare provider identifier to ensure accurate identification of and recording against the correct healthcare provider. The relevant operator of the program would be authorised to use the HPI-I to confirm eligibility to participate in the program, which could involve disclosing the HPI-I and other identifying information and business and professional details to the service operator under the Act (the HI service operator). The HI service operator would be authorised to disclose to the relevant operator or operators of the health facilitation program the status of the HPI-I, and other identifying information, such as the type of healthcare provider that the individual healthcare provider is and the professional registration status of the provider.

Background

Current authorisations within the *Healthcare Identifiers Act 2010* (the Act) and section 10 of the *Healthcare Identifiers Regulations 2020* provide for healthcare providers to use and disclose HPI-Is for certain purposes largely related to the communication or management of health information. The HI service operator is also authorised to disclose HPI-Is for certain purposes. However, the current authorisations do not support disclosure for registration or administration purposes to facilitate participation in a health program or scheme.

It is intended that HPI-Is may be disclosed and used to support the delivery of health services via health-related programs, schemes or incentives, collectively referred to in the instrument as ‘health facilitation programs’.

To participate in the relevant health facilitation program (that is to deliver healthcare through the program), the healthcare provider would disclose their own HPI-I to the operator or operators of the relevant health facilitation program.

An operator of a health facilitation program would be authorised to verify, via the HI service operator, that an HPI-I belongs to a particular healthcare provider, and to verify identifying information about the provider, such as the professional and registration details of the

healthcare provider. The HI service operator will have corresponding authorisations to confirm those details to an operator of a health facilitation program.

An example of a health facilitation program that will be able to rely on the authorisations is a proposed program under development - the Chronic Wound Consumables Scheme (CWCS). The CWCS is a program aimed at people with diabetes 65 years and over, or 50 years and over for Aboriginal and Torres Strait Islander patients, to receive fully subsidised (no co-payment) wound consumable products delivered directly to their doors. To manage the CWCS, it is intended that healthcare providers should be required to disclose their HPI-I in order to register for the CWCS (that is, effectively, to apply to be able to deliver healthcare through the program – in this case to have wound care products ordered and delivered to their patients). The HPI-I would also be disclosed during other interactions with the CWCS, including when registering a healthcare recipient, ordering products on behalf of a healthcare recipient and in order to cease the healthcare provider's registration (if they choose to cease to participate in the CWCS).

Authority

Section 39 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted to be prescribed by the Act, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 25D of the Act provides that regulations may authorise the collection, use or disclosure of identifying information or the healthcare identifier of a healthcare provider and for the adoption of the healthcare identifier of a healthcare provider. Subsection 25D(3) limits the regulation-making power to the collection, use, disclosure or adoption for certain purposes, including to determine whether adequate and appropriate healthcare is available, or to facilitate the provision of adequate and appropriate healthcare, to healthcare recipients, or a class of healthcare recipients

Reliance on subsection 33(3) of the *Acts Interpretation Act 1901*

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Commencement

This instrument commences the day after registration on the Federal Register of Legislation.

Consultation

Broad consultation on reform of the Healthcare Identifiers framework has occurred and informed the need to change from the current narrow prescriptive nature of authorisations for the use of healthcare identifiers, to support a broader principles-based approach to their use to support healthcare delivery and the administration of health services. Broader review and change are being proposed. The amendments in this instrument facilitate program solutions to commence before the broader review and changes.

There is broad support from Australian governments, healthcare providers and peaks, and the software industry, to ensure the healthcare identifiers legislative framework supports the unique identification of healthcare providers and healthcare recipients in the provision of healthcare and that healthcare identifiers can be used across health programs supporting the delivery of care.

General

This instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of this instrument are set out in **Attachment A**.

This instrument is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in **Attachment B**.

Details of the *Healthcare Identifiers Amendment (Health Facilitation Programs) Regulations 2025*

Section 1 – Name

Section 1 provides that the name of the instrument is the *Healthcare Identifiers Amendment (Health Facilitation Programs) Regulations 2025*.

Section 2 – Commencement

This instrument commences on the day after it is registered on the Federal Register of Legislation.

Section 3 – Authority

Section 3 provides that the instrument is made under the *Healthcare Identifiers Act 2010*.

Section 4 – Schedules

This section provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 - Amendments

Healthcare Identifiers Regulations 2020

Item 1 – Section 5

This item inserts the definition of a ‘health facilitation program’ to section 5. ‘Health facilitation program’ means a program that is operated or funded by one or more government bodies and that facilitates the provision of adequate and appropriate healthcare to healthcare recipients, or a class of healthcare recipients.

The reference to programs operated or funded by one or more government bodies, is intended to provide for programs that may be operated directly by government, or that may be operated on behalf of government, where government funds the delivery of the program. This will include programs for which a government entity executes or manages all aspects of the program and where a government entity has contracted such functions (including IT delivery or the technical solution necessary to deliver the health facilitation program) to another entity, or where the government entity has responsibility for oversight, governance or management of the program.

The definition will apply to any program that supports individual healthcare providers to provide healthcare or elements of healthcare (including coordination of treatment and supplies or administration of those treatments and supplies) and therefore facilitates the

provision of adequate and appropriate healthcare to healthcare recipients, or a class of healthcare recipients.

This item also inserts the definition of ‘operator’ of a health facilitation program to section 5. ‘Operator’ of a health facilitation program means the body, or any of the bodies, that operates the program.

The definition recognises that there may be more than one operator involved in the operation of a health facilitation program. The definition therefore ensures that authorisations to use healthcare identifiers and identifying information will apply to multiple operators who may be involved in the delivery of the same health facilitation program.

Item 2 - At the end of Part 2

This item adds sections 10A and 10B at the end of Part 2 of the *Healthcare Identifiers Regulations 2020*.

Section 10A is titled Collection, use and disclosure—individual healthcare provider information in relation to health facilitation program.

Section 10A authorises the collection, use and disclosure of the healthcare identifier and identifying information of a healthcare provider for certain purposes.

The section provides that an individual healthcare provider may use and disclose their healthcare provider identifier to the operator or operators of a health facilitation program or to the service operator, for the purpose of determining the healthcare provider’s eligibility to participate in the health facilitation program, registering the provider to participate in the program, or as part of participation in a health facilitation program. A healthcare provider may use their provider healthcare identifier to access information about, or generated during, the healthcare provider’s participation in a health facilitation program, including after the provider has exited the program – for example, this will allow views of prior claims, orders, referrals or other interactions made during the period the healthcare provider was an active participant in the program. Authorisations to support use of healthcare identifiers during and after a healthcare provider has exited the program will ensure healthcare providers can support continuity of care for healthcare recipients who are receiving, or may have received, healthcare through the health facilitation program.

This section also provides that a healthcare provider may collect, use and disclose the healthcare identifier of another healthcare provider to support continuity of healthcare to healthcare recipients, or a class of healthcare recipients. These permissions apply while the healthcare provider is an active participant in, and after they have exited from, the program. For example, there may be more than one healthcare provider supporting a particular healthcare recipient, and each provider will be able to handle the healthcare identifiers of other providers providing care to that same healthcare recipient through the program. This will support providers to jointly facilitate care on behalf of a healthcare recipient, including communicating and reporting on care provided, and support handovers between healthcare providers. The amendments include relevant authorisations for the operator of the health facilitation program and the HI service operator for these purposes.

The operator of a health facilitation program is also authorised to collect and use the healthcare identifier and identifying information of an individual healthcare provider, and to disclose it to the service operator for the purpose of determining the healthcare provider's eligibility to participate in the health facilitation program, registering the provider to participate in the program, or as part of participation in a health facilitation program.

This section also authorises the service operator to collect from, use and disclose the healthcare identifier and identifying information of a healthcare provider to the operator/s of a health facilitation program, and for the program operator to collect such information, relevant to determining the healthcare provider's eligibility to participate in the health facilitation program. Information relevant to such a program may for example include: the status of the provider's healthcare identifier, whether the individual healthcare provider is registered with a registration authority and the status of that registration, and the type of healthcare provider that an individual is (e.g. whether they are a medical practitioner, physiotherapist, osteopath).

The effect of the authorisation is that the HI service operator may verify to a health facilitation program operator that a healthcare identifier belongs to a particular healthcare provider, and the professional and registration details of that provider.

The authorisations are deliberately technology neutral so as to support the systems used by health facilitation programs and the HI service operator to collect, use and disclose healthcare provider identifiers and related identifying information for purposes related to administering a health facilitation program.

Section 10A also authorises the operator of a health facilitation program to use the healthcare identifier of an individual healthcare provider for the purpose of evaluating and reporting on the provision of healthcare through the health facilitation program.

The authorisations have the effect that a health facilitation program is authorised to collect, use and disclose healthcare identifiers and identifying information for the permitted purposes, including via any technology solution used to support the operation of the health facilitation program.

The authorisations are intended to apply to the types of things that would occur as part of delivering health services through the health facilitation program. Such things might include registering a patient, ordering services or products, referring a healthcare recipient to another healthcare provider, reporting on services delivered through the program, or applying for funding/reimbursement of costs through the program. Authorisations will also support analysis, monitoring, evaluation and reporting on the program to ensure it is meeting the objective of facilitating the delivery of adequate and appropriate health care to healthcare recipients. Any entity engaged to perform analysis, evaluation or reporting on the health facilitation program and to whom a healthcare provider identifier is disclosed for that purpose, may use the healthcare provider identifier as part of the analysis, evaluation or reporting on the program.

Section 10B is titled Adopting the healthcare identifier of an individual healthcare provider—health facilitation program.

Section 10B authorises the operator of a health facilitation program to adopt the healthcare identifier of an individual healthcare provider for use as the operator's own identifier for the purposes of the health facilitation program.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Healthcare Identifiers Amendment (Health Facilitation Programs) Regulations 2025

This Disallowable Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Disallowable Legislative Instrument

The *Healthcare Identifiers Act 2010* (the Act) establishes a system for the assignment of national identifiers to uniquely identify healthcare recipients, providers and provider organisations. The Act and the *Healthcare Identifiers Regulations 2020* authorise the collection, use, disclosure and adoption of identifiers for particular purposes.

The *Healthcare Identifiers Amendment (Health Program Facilitation) Regulations 2025* (the instrument) will extend authorisations to use individual healthcare provider identifiers (HPI-Is) by programs designed to facilitate the provision of adequate and appropriate healthcare to healthcare recipients, or classes of healthcare recipients.

The instrument will authorise a healthcare provider to disclose their own individual healthcare provider identifier (HPI-I) for use in the administration of health-related programs, schemes or incentives (a ‘health facilitation program’). The intent is that where a program is established to facilitate the delivery of health services to particular healthcare recipients or classes of recipients, that the healthcare identifier of the provider will be able to be used as part of administering the program. The relevant operator of the program would be authorised to use the HPI-I to confirm eligibility to participate in the health facilitation program, which could involve disclosing and collecting (confirming) the HPI-I and other identifying information and business and professional details to the service operator under the Act (HI service operator).

To participate in the relevant program (that is to deliver healthcare through the program), the healthcare provider would disclose their own HPI-I to the operator or operators of the relevant health facilitation program.

An operator of a health facilitation program would be authorised to verify, via the HI service operator, that an HPI-I belongs to a particular healthcare provider, and to verify identifying information about the provider, such as the type of healthcare provider that the provider is, and the status of their registration with a registration authority. The HI service operator will have corresponding authorisations to confirm those details to an operator of a health facilitation program.

The HPI-I will also be able to be used to support reporting on and evaluation of the program. Use of the HPI-I and related identifying information, including the provider’s professional registration and status, will support streamlined assessment of the eligibility to participate in the program and monitoring and evaluation of the program, to ensure it is meeting the

objective of facilitating the delivery of adequate and appropriate health care to healthcare recipients.

An example of a health facilitation program that will be able to rely on the authorisations is a proposed program under development - the Chronic Wound Consumables Scheme. It is intended that healthcare providers would disclose their HPI-I in order to register for the CWCS (that is, effectively, to apply to be able to deliver healthcare through the program – in this case to have wound care products ordered and delivered directly to their patients). Further disclosures may be necessary during interactions between the provider and the CWCS. CWCS implementation proposes to rely on existing technology solutions to facilitate the registration of providers for the CWCS, such as PRODA and HPOS systems, which register and validate healthcare providers to participate in and receive payments for government-funded initiatives. Disclosure of the HPI-I by the healthcare provider to the CWCS will occur via those technology solutions. The HPI-I would also be disclosed during other interactions with the CWCS, including when registering a healthcare recipient, ordering products on behalf of a healthcare recipient and in order to cease the healthcare provider's registration (if they choose to cease to participate in the health-related program).

Human rights implications

The instrument engages the following rights:

- Article 12(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) being the right to the enjoyment of the highest attainable standard of physical and mental health; and
- The right to privacy under Article 17 of the International Covenant on Civil and Political Rights (ICCPR).

The Right to Health

The amendments in the *Healthcare Identifiers Amendment (Health Facilitation Programs) Regulations 2025* provide authorisations for the handling of healthcare identifiers and associated identifying information by health programs and their supporting technical solutions.

Article 12(1) of the ICESCR provides that everyone has the right to the enjoyment of the highest attainable standard of physical and mental health.

The amendments promote the right to health, by supporting programs that facilitate the delivery of adequate and appropriate health services to Australians. The authorisations to use unique provider identifiers and related identifying information will streamline administration processes that will facilitate the delivery of healthcare. For example, the CWCS is designed to allow healthcare professionals to order wound products on behalf of their patients, which are then to be delivered directly to the individual, rather than the individual having to attend the healthcare provider, or a pharmacy or other site, to access the required products.

Authorisations to use healthcare provider identifiers to determine eligibility for, manage participation in, and reporting and evaluation of, a health facilitation program will ensure appropriate and adequate care is available for healthcare recipients, delivered by suitably qualified professionals.

The amendments will enable the Healthcare Identifiers Service to interact with the operators of health facilitation programs, and to collect, use and disclose provider identifiers and related professional information to support providers to participate in programs which streamline or incentivise the delivery of health services to consumers.

Overall, it will mean healthcare providers (and the consumers they are supporting) can more efficiently participate in such programs, avoiding the need for manual processes and ongoing checks that would otherwise be required to determine eligibility. In supporting the administration of programs that will facilitate the delivery of health services, the instrument positively affects the right to health.

The Right to Privacy

Protection against arbitrary or unlawful interference with privacy is contained in Article 17 of the ICCPR. Article 17 provides that no one shall be subjected to arbitrary or unlawful interference with their privacy, family, home or correspondence, nor to unlawful attacks on their honour or reputation, and that everyone has the right to the protection of the law against such interference or attacks.

The right to privacy includes respect for informational privacy, including in respect of storing, using and sharing private information and the right to control the dissemination of personal and private information. The right to privacy also includes the right to the protection of one's personal data. The right to privacy under Article 17 can be permissibly limited to achieve a legitimate objective and where the limitations are lawful and not arbitrary. The term 'unlawful' in Article 17 of the ICCPR means that no interference can take place except as authorised under domestic law.

Safeguards under the Act will apply to the additional authorisations for the use of provider identifiers under these amendments. The Act includes requirements for entities that hold healthcare identifiers to take reasonable steps to protect them from misuse and loss and unauthorised access, modification or disclosure. Significant penalties apply for unauthorised use and disclosure of healthcare identifiers.

The amendments engage the right to privacy, as a health facilitation program will be authorised to collect, use and disclose the healthcare identifier of a healthcare provider for purposes related to determining whether the provider is eligible to participate in the program, and for administration of and reporting on the program. To participate in such programs currently, providers could be expected to disclose certain information to allow the operator of a program to determine whether they are eligible – for example, whether they have the appropriate skills (based on the type of healthcare provider that the individual is) – and whether they are authorised to practice (because their registration with a registration authority is current). The authorisations under the proposed amendments will enable this information to be exchanged between the operator of the health facilitation program and the HI service operator under the Act. This will have the effect of streamlining administrative processes to support the funding and delivery of health services. Accordingly, the limitations on the right to privacy under the instrument are reasonable, necessary and proportionate as they appropriately balance the competing objectives of facilitating the delivery of adequate and appropriate healthcare with an individual's right to privacy.

The amendment will enable the HI service operator to interact with the operators of health facilitation programs, and to collect, use and disclose provider identifiers and related professional information to support providers to participate in programs which streamline or incentivise the delivery of health services to consumers. The HI service operator will be able to effect changes to enable healthcare identifiers to be collected from providers via existing solutions and shared to health facilitation programs to support administration of those programs.

Overall, it will mean providers (and the consumers they are supporting) can more efficiently participate in such programs, avoiding the need for manual processes and ongoing checks that would otherwise be required to determine eligibility. In this way, the limits on the right to privacy are considered to support the legitimate objective of streamlining and supporting the delivery of adequate and appropriate health services.

Conclusion

The proposed amendments are compatible with human rights because they promote better health outcomes for Australians by enabling efficient and effective access to health services by trusted providers. The instrument engages the right to privacy for the legitimate objective of promoting better access to health services and to the extent that the right to privacy is limited, this is reasonable, necessary and proportionate in the circumstances.

Mark Butler
Minister for Health and Ageing