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ON SAFETY AND QUALITY IN HEALTH CARE



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Attestation by Governing Bodies: Literature review

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Preface

This preface was written by the Australian Commission on Safety and Quality in Health Care (the Commission) to provide context and background to the report which follows, *Attestation by Governing Bodies: Literature review*. The Commission contracted the University of Technology Sydney (UTS) to prepare the literature review, as part of the review of the Australian Health Service Safety and Quality Accreditation (AHSSQA) Scheme.

Background

The Commission's role is to lead and coordinate national improvements in the safety and quality of health care. The Commission works in partnership with the Australian Government, state and territory governments and the private sector to achieve a safe and high-quality, sustainable health system. In doing so, the Commission also works closely with patients, carers, clinicians, managers, policymakers and healthcare organisations.

The Commission is responsible under the *National Health Reform Act 2011* for the formulation of standards relating to healthcare safety and quality matters and for formulating and coordinating national models of accreditation for health service organisations.

The Commission developed the National Safety and Quality Health Service (NSQHS) Standards in consultation with the Australian Government, state and territory governments, technical experts and stakeholders. They aim to protect the public from harm and to improve the quality of health service provision.

To become accredited, health service organisations must pass assessments to show they have implemented the NSQHS Standards. The assessments are conducted by independent accrediting agencies approved by the Commission as part of the AHSSQA Scheme. However, state and territory regulators and chief executives of health service organisations have raised concerns about several aspects of the accreditation process.

The Commission is undertaking a review to update and improve the accreditation process. In May 2017, the Commission contracted four literature reviews to provide an evidence base to inform the Commission's review of the AHSSQA Scheme. The reviews explored the potential use of the following methods to improve the veracity of health service organisations:

- Attestation by a governing body
- Short-notice and unannounced surveys
- Patient journey and tracer methodologies
- Safety culture assessment.

The report that follows this preface presents the findings of a literature review that explored the potential use of attestation by governing bodies during accreditation of health service organisations.

Key findings

The report on attestation by governing bodies includes a definition of attestation, a review of the evidence of the effectiveness of attestation by governing bodies as part of accreditation in healthcare, and examples of the use of attestation in practice.

Definitions

The literature review explored the various definitions of 'attestation' in national and international settings. Although the authors found a great deal of variation in the use of the term, for the purpose of the review, they define attestation as "a formal process relating to the making of a written affirmation or verification of organisational self-reporting of past performance (including the existence of a fact or state of affairs, or the veracity of representations) rather than recurring future compliance"(page 8). Attestations have a similar meaning to written representations, and the terms are often used interchangeably.

Attestation is not generally used as a standalone method to verify compliance or accuracy of information provided. In most cases this is because there is a lack of well-defined consequences for inaccurate or deliberately misleading attestations. Therefore its usefulness as a self-reported assurance relies on its existence within a broader regulatory or compliance framework that ensures consequences for inaccurate or misleading attestations. These consequences may include direct penalties, suspension or restriction of practice, or quarterly publication of the attestations made.

Enforceable undertakings are another form of self-reported assurance. Unlike attestations and written representations, they are a commitment by an organisation to a series of future actions. This type of administrative mechanism is generally legally binding and enforceable in court.

Despite the differences between them, the terms attestation, written representation and enforceable undertakings can sometimes be used interchangeably. For clarity, the review includes examples of each type of self-reported assurance.

Evidence of effectiveness

The authors found very little evidence on the use of attestation in health care in the peer-reviewed literature. The lack of research-based evidence on the use of attestation by governing bodies in service organisations indicates this is not an area that has been systematically researched in the past.

Examples of use

A search of regulatory and grey literature, including government and accreditation agency reports, identified two accreditation schemes and seven organisations that used attestation in Australia and internationally, both in health care and in other regulated industries.

Examples of attestation and enforceable undertakings that are currently used in Australia and internationally include:

- Written representations as to governing arrangements and quality improvement plans
- Statements confirming the responsibilities of governing bodies in ensuring the safety and quality of services
- Written representations confirming compliance with standards
- Written representations confirming capability and capacity of frameworks
- Written representations confirming that reporting is accurate and does not include deliberately misleading information
- Enforceable undertakings as to rectification of breaches
- Enforceable undertakings confirming risk monitoring and management of risk.

Enforcement mechanisms used to ensure accuracy of attestations and completion of enforceable undertakings differ depending on the regulatory and compliance framework in

which the method is being used. There are instances in which there are no specified consequences. In contrast, there are other examples where there are significant consequences for inaccuracies, ranging from financial and other penalties to criminal convictions.

Conclusion

The report that follows this preface concludes that while empirical evidence is not available on the use of attestation by governing bodies in health service organisations, there are enough parallels with practice in Australia and internationally to support ‘proof of concept’ trials of this approach. The Commission agrees with this conclusion.

The review of examples of attestation in practice in Australia and internationally, both in health care and in other regulated industries, indicate scope to use this method to increase accountability and engagement by governing bodies.

Introducing attestation by governing bodies of health service organisations as part of the accreditation process to the NSQHS Standards would be a formalisation of existing requirements for governing bodies to be responsible for safety and quality of care. This would not be a significant departure from the current remit of governing bodies.

The use of an enforcement method to provide consequences for inaccuracy of attestations would be a more substantial change to the AHSSQA Scheme.

In terms of methods of self-reported assurances, further consideration will need to be given to:

- What the governing body is required to attest to; this could include past compliance with the NSQHS Standards, accuracy of reporting, the role of the governing body or capability and capacity of the organisation
- What form the self-reported assurance will take
- Whether an enforcement mechanism will be used to penalise inaccurate attestations or non-completion of enforceable undertakings
- If a method of enforcement is to be used, what method will this be – this will be a decision to be negotiated with state and territory regulators, as the Commission does not have regulatory powers.

Next steps

The Commission will consult further with stakeholders, including regulators, health service organisations and accrediting agencies on potential methods of attestation by governing bodies as part of updates to the AHSSQA Scheme.

Mechanisms to enforce the accuracy of attestations will be discussed further with state and territory regulators.

Updates to the AHSSQA Scheme are planned to be put into practice in time for the start of accreditation of health service organisations to the second edition of the NSQHS Standards in January 2019.

ATTESTATION BY GOVERNING BODIES: LITERATURE REVIEW

THE AUSTRALIAN COMMISSION ON SAFETY AND QUALITY
IN HEALTH CARE

University of Technology Sydney

August 2017

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EXECUTIVE SUMMARY

This report presents the findings of a systematic literature review on the use of attestation and attestation-like processes (including written representations and enforceable undertakings) in healthcare accreditation. The study was conducted by the Centre for Health Services Management, Faculty of Health, University of Technology Sydney (UTS) for the Australian Commission on Safety and Quality in Health Care (the Commission). The review sought to collate and review evidence on the potential for this method to enhance the veracity of health service accreditation in Australia.

The literature search was conducted in two phases. Phase 1 sought empirical, peer-reviewed studies on the use of attestation in healthcare accreditation in Medline, CINAHL, Embase and Scopus databases. This search identified few empirical studies, and none directly relevant to attestation in healthcare accreditation. One area of research, the use of attestation in the meaningful use of electronic health records in the United States, may provide some insights in the future, but remains immature at present. Phase 2 examined current practice in attestation across healthcare and other regulated activities across a range of jurisdictions as a way of identifying comparable models of practice. This search produced a range of relevant local and international exemplars, both in health and in other sectors (notably finance).

The findings indicate that the use of attestation in healthcare and accreditation, while not new, has not been researched in any systematic way and therefore lacks a strong evidence base. This, however, is not unusual in healthcare accreditation, which is still building a strong body of research.

While the evidence base regarding impact is weak, there are plentiful examples of the use of attestation and related assurance approaches both in Australia and internationally. Essentially, they operate in one of two ways: as a formal declaration that an organisation has undertaken certain actions and has represented those actions accurately (attestation or written representation); or as a formal commitment that the organisation will undertake specific actions (enforceable or voluntary undertakings).

Attestation is rarely used as a ‘standalone’ procedure. Rather, it generally forms one mechanism within a broader regulatory and compliance framework. Neither is there a single type of enforcement mechanism. In some instances, there is no clear indication of exactly what would occur in the case that an attesting body made a false or misleading attestation, or failed to complete actions specified in an undertaking. Penalties for inaccurate representations or breaking commitments as part of enforced undertakings also vary depending on the type of commitment made, the jurisdiction and the regulatory power of the accrediting or reviewing institution. Most importantly, they vary depending on the regulatory context of the attestation, with some bodies which demand or receive attestations or undertakings being formal state or quasi-autonomous regulatory agencies, whilst others are voluntary or industry-based organisations which often lack strong enforcement mechanisms.

Evidence for the use of attestation-like mechanisms to increase the veracity of health service organisation assessment is limited. However, there are enough parallels with the use of such mechanisms, both in other countries and across Australian jurisdictions, to support ‘proof of concept’ trials of this approach. The report identifies a number of regulatory examples that include a range of consequences resulting from attestation. Some of these align closely with the Commission’s current remit and powers. When considered in combination with the increasing familiarity of Australian healthcare services with both corporate and clinical governance mechanisms, this means that attestation should not cause significant concern if some form of the approach were to be introduced as part of the Australian Health Service Safety and Quality Accreditation (AHSSQA) Scheme.

1. INTRODUCTION

In May 2017, the Australian Commission on Safety and Quality in Health Care (the Commission) requested the Centre for Health Services Management (CHSM), Faculty of Health, University of Technology Sydney to complete three literature reviews on the following issues to assess their potential to enhance the effectiveness and efficiency of healthcare accreditation in Australia in general, and the Australian Health Service Safety and Quality Accreditation (AHSSQA) Scheme in particular:

- Attestation by a governing body
- Short notice and unannounced survey methods
- Patient journey and tracer methodologies.

The UTS team that completed these reports included: Professor Joanne Travaglia (CHSM); Dr Reece Hinchcliff (CHSM); Mr David Carter (CHSM and Faculty of Law, UTS), Ms Lisa Billington (CHSM); Dr Miriam Glennie (CHSM); and Dr Deborah Debono (CHSM).

The project findings are presented in three separate reports. This is the first report of the three-part compendium. This report commences with a background section that contextualises attestation and its use within the field of accreditation. It then demonstrates the paucity of empirical studies into the use of attestation within this field, exploring as an alternative the extensive regulatory and grey literature which demonstrates the use of attestation as part of governance and regulatory processes both in Australia and internationally. The report concludes with some implications for the use of attestation within the AHSSQA Scheme.

2. BACKGROUND

2.1 RATIONALE

Despite the almost universal acceptance of accreditation schemes within health care, evidence of their efficiency and effectiveness is still inconclusive (Hinchcliff et al., 2012; Greenfield et al., 2015b). As a result, while large-scale healthcare accreditation schemes employ similar processes (e.g. assessment surveys), the specific methods used (e.g. announced or unannounced surveys) can vary as accrediting bodies seek new ways to improve the strength of their schemes (Ehlers et al., 2017; Simonsen et al., 2015). Novel methods (e.g. tracer methodologies) are being increasingly added to ‘standard’ accreditation reviews as a way of improving their reliability (Greenfield et al., 2012).

This literature review was undertaken within this broader context, for the purpose of determining whether attestation could be a useful tool for strengthening the AHSSQA Scheme and improving the veracity of health service organisation assessments. Although well established in corporate governance, including for Australian government instrumentalities (see for example eHealth NSW, 2015) and Local Health Districts (LHDs) (see for example Western Sydney Local Health District Board, 2016), the use of attestation is not well examined as part of healthcare accreditation processes.

Indeed, as this report demonstrates, it is so new that research into its use in health care outside of corporate governance structures is largely limited to healthcare services’ attestation to the ‘meaningful use’ (MU) of electronic health records (EHRs) in the United States. The purpose of such an attestation is to gain incentive payments when they use that technology “*privately and securely to achieve specified improvements in care delivery*” (Blumenthal and Tavenner, 2010: 501). Meaningful use is defined as the use of certified EHR technology for the purposes of: improving quality, safety and efficiency of health care and reducing health disparities; engaging patients and families; improving care coordination, population and public health; and/or maintaining the privacy and security of patient health information. Even there, the available studies address the outcomes of the process (i.e. evidence of meaningful use) as opposed to the method (i.e. the use of attestation to ensure meaningful use) (Weeks et al., 2015).

The AHSSQA Scheme is the largest healthcare accreditation scheme in Australia, and is designed to monitor the safety and quality of healthcare organisations (Australian Commission on Safety and Quality in Health Care, 2016) against a set of evidence-based standards (i.e. the National Safety and Quality Health Service Standards) (Greenfield et al., 2015b). Brubakk et al. (2015: 2) clarify the distinction between two elements, specifically assessment and certification, contained in the accreditation process. They define “... *hospital accreditation programs as the systematic assessment of hospitals against accepted standards and certification [as the] confirmation of characteristics of an object, person, or organization against published standards*”. The question addressed in this report lies at the juncture of these two activities, that is: can the certification process be strengthened and the veracity of health service assessments be improved through the use of attestation and attestation-like processes?

Confirmation in the context of healthcare accreditation occurs through both external (etic) or internal (emic) accounts (Gover et al., 2016). Although not without debate, the use of external surveyors (including peers) is the predominant accreditation review method (Greenfield et al., 2008; Greenfield et al., 2015a; Greenfield et al., 2016; Greenfield et al., 2009; Greenfield et al., 2013b). The shadowing of clinicians is another example of an external approach (Siewert, 2017). Confirmation from an external perspective occurs through the comparison of independently observed levels of quality and safety to those required by the relevant standards (Azami-Aghdash and Mohammadi, 2013).

As part of accreditation, internal accounts include gathering pre-determined information against standards (Saghatchian et al., 2009). This form of data collection is also used as part of external accreditation processes, as a pre-cursor to visits by surveyors and/or for the process of internal review (Bohigas and Heaton, 2000).

The spread of accreditation as a dominant method of quality and safety assurance has not, as yet, been equally matched by the development of evidence regarding its impacts on the quality and safety of health services and systems (Braithwaite et al., 2011). Even within the narrow available research there are further limitations, with much of the

focus on survey methods (Greenfield et al., 2008; Greenfield et al., 2016; Greenfield et al., 2009; Greenfield et al., 2013b). As Hinchcliff et al. (2012: 988) note, there is “... a paucity of evidence regarding the relative impact of other accreditation components, such as different forms of organisational self-assessment”. The evidence that is available seems to indicate that internal self-assessment scores might be higher than external ratings because these latter are “... usually more demanding and strict” (Favaretti et al., 2015: 166).

2.2 ATTESTATIONS, WRITTEN REPRESENTATIONS AND ENFORCEABLE UNDERTAKINGS

Attestation is one of the three most common forms of self-reported assurances, along with written representations and enforceable undertakings. Attestations and written representations are formal statements commonly made to verify the accuracy of a document’s contents, as well as representations regarding compliance with standards or guidelines or the existence of particular facts or states of affairs. In Australia, the Auditing and Assurance Standards Board (AUASB) states that assurance practitioners (for example, auditors) may seek written representations from organisations which acknowledge the responsibility of governing bodies for certain compliance activities; vouch for having provided the assurance practitioner with all relevant access and information; and certify to having disclosed to the assurance practitioner any instance of non-compliance with the standard under review (Auditing and Assurance Standards Board, 2017b).

In the context of a rigorous regulatory framework, false or misleading written representations are managed using intra-regulatory framework sanctions, such as publication of breaches (Financial Conduct Authority, 2017) or pecuniary penalties (Financial Services and Markets Act 2000 (UK).

Although written representations provide *necessary* evidence, they do not provide *sufficient* evidence on their own about any of the matters which they represent. Furthermore, the fact that the assurance practitioner has received reliable written

representations does not affect the nature or extent of other evidence that the assurance practitioner obtains (Auditing and Assurance Standards Board, 2014).

By comparison, enforceable undertakings are generally administrative mechanisms used *“where a breach, or a potential breach, might otherwise justify litigation”* (Australian Competition and Consumer Commission and Australian Energy Regulator, 2016: 70). These involve an alleged offender promising to undertake (or to refrain from) certain mutually-agreed actions (Nehme, 2008) and comprise *“a promise enforceable in court”* (Nehme, 2010: 108) where the applicable law allows for it. Where attestation or written representations are primarily a formality related to verification of document quality and address past actions or the existence of facts or particular states of affairs, enforceable undertakings are generally both legally binding and primarily address future actions by the parties involved (Nehme, 2010: 109).

This review includes examples of attestations, written representation and enforceable undertakings. This inclusive approach was taken for three reasons. First, as discussed in the methods chapter following, while there is a lack of empirical research in this field, a review of practice evidence may still provide the Commission with useful insights. Second, both healthcare and related programs (including accreditation and similar risk and management programs) often use a combination of methods, which makes it difficult to discuss one without reference to the others. Finally, because of this use in combination, there is a lack of clear definition between each form in theory and between different regulatory regimes, which leads to a blurring of both how attestations, written representations and enforceable undertakings are described, and how they are utilised in practice.

2.3 DEFINING ATTESTATION

Any examination of the use of attestation in accreditation must begin with an acknowledgement that no universally accepted definition of ‘attestation’ currently exists. Definitions vary across jurisdictions (Accreditation Canada, 2011; Joint Commission International, 2015) or even between different accreditation and regulatory frameworks within a single jurisdiction (Australian Competition and

Consumer Commission and Australian Energy Regulator, 2016; Australian Securities and Investments Commission, 2016). Equally, there appears to be no significant difference in the definition or application of “attestation”, “attesting to” or “to attest”. In some contexts, attestation is simply a documentation formality (Rissing and Castilla, 2016) and in others, it refers to undertakings as to future promised behaviour between a regulated institution and a regulatory body (see for example Financial Conduct Authority, 2017). For the purposes of this review, the term attestation is used in reference to: *formal processes relating to the making of a written affirmation or verification of organisational self-reporting of past performance (including the existence of a fact or state of affairs, or the veracity of representations) rather than recurring future compliance.*

Attestation can be observed in only a small number of regulatory and accreditation frameworks, both in Australia and internationally (Accreditation Canada, 2011; Joint Commission International, 2015). The use of attestation is hedged by significant caveats regarding its reliability or effectiveness as a regulatory (or supervisory) tool, both alone and in terms of whether auditing (or accrediting) bodies take the attestations made at face value (Shrives and Brennan, 2015). For example, the Australian Prudential Regulation Authority (APRA) uses attestation as a small element of its broad oversight functions. They note, however, that it “... *does not envisage that attestations and representations would be sufficient for a regulated institution to fully satisfy itself*” (Australian Prudential Regulation Authority, 2008: 7).

Attestation is rarely used as a ‘standalone’ procedure. This is because attestation as a regulatory mechanism generally lacks enforcement mechanisms (i.e. well-defined consequences when assurances attested to are subsequently found to be inaccurate representations). This is partially due to its predominant use as an account or assurance of past performance, rather than in relation to future compliance (Rissing and Castilla, 2016). For this reason, it generally provides one type of intervention within a broader regulatory and compliance framework (Abbott et al., 2017), such as that employed by the Financial Conduct Authority (FCA) in the United Kingdom. The enforcement mechanisms of such frameworks can range from direct penalties or the suspension or

restriction of practice of auditors, to the quarterly publication of the attestations that organisations were required to make (see section 4.2.4 below).

3. METHODS

3.1 OVERVIEW

The search for this review on attestation was conducted in two phases. Phase 1 employed a conventional systematic search strategy that was purely designed to identify relevant peer-reviewed journal publications. The Phase 1 search parameters were selected based on a scoping review of key documents, discussions with the Commission, and the pre-existing subject matter expertise of the project investigators, as well as database search trials with the Medical and Law Librarians at UTS. Several iterations of search term lists were utilised in a scoping process. In the end the following terms were and utilised across all databases: attest*; certif*; witness; commitment; declar*; form; sign-off; "due diligence"; "regulatory attestation"; confirmation*; "statutory declaration"; affidavit; affirmation; governance body; board; corporate; organisation*; executive; officer; secretar*; "regulatory compliance" OR compliance OR risk OR governance; *statement OR sign* OR oath OR verif* OR report* OR affirm**.

Each of these subject matter terms was searched in combination with the specific term *accredit**.

Searches of the bibliographic research databases most commonly used in health-related systematic literature reviews (i.e. Medline, CINAHL, Embase, and Scopus) were conducted using the above terms. Search results were reviewed for eligibility using the following inclusion criteria, agreed upon by the Commission:

- English language
- Published 2000 – 2017, inclusive (except for Medline which was open ended from 1946 to test any historical references that would otherwise be missed)
- Focused on accreditation, as applied to healthcare organisations (i.e. not professional credentialing)
- Empirical research (i.e. studies involving literature reviews or primary data).

Phase 2 of the search strategy consisted of an environmental scan of regulatory and grey literature (e.g. government and accreditation agency reports) as well as other sources of information relating to attestation, within and beyond the domain of healthcare accreditation. This included a manual search of relevant websites to determine the use of attestations within Australian regulatory frameworks as well as healthcare accreditation systems (including the Australian Commission on Safety and Quality in Health Care, Australian Council on Health Care Standards, International Standards Organisation, Joint Commission; Joint Commission International, Accreditation Canada, and European Co-operation for Accreditation). Jurisdictions, websites and organisations offering English-language primary source data were preferred, as well as accreditation frameworks which were popularly used, highly respected, or both.

Both the peer-reviewed and grey literature identified was screened by the project investigators, always including at least one researcher with legal and another with accreditation background and expertise. Follow-up discussions were held with the project team to define final inclusions for the review.

Due to the paucity of empirical research in this field, the authors conducted a narrative synthesis of key themes raised in the body of literature obtained through the Phase 2 search. This method has been employed previously by one of the project leads in accreditation-related literature reviews to elucidate findings of potential relevance to policy and other healthcare stakeholders (Hinchcliff et al., 2012). The narrative synthesis was conducted independently by three project investigators, and then collaboratively via ongoing discussions and reflections on the collected literature with other project members and members of the Commission. This approach reduced the risk of individual bias in either discipline (legal or healthcare systems) confounding the findings, which strengthened the validity of the review.

4. RESULTS

The results from Phase 1 and Phase 2 of the literature searches are presented in sections 4.1 and 4.2 respectively. While the narrative synthesis of items collated in the Phase 2 search highlighted important themes and issues for consideration by the Commission, it did not identify any empirical evidence regarding the effectiveness of attestation per se. For this reason, these resources have been cited throughout the narrative synthesis in section 4.2 below, rather than presented in a table format.

Please note that due to the frequency and similarity of acronyms associated with the organisations discussed in this section, it was decided to retain most of the names of these bodies in full, where doing so would reduce confusion.

4.1 PHASE 1 RESULTS

Table 1 below presents the findings of the peer reviewed literature search (Phase 1). In reviewing the results, none met Phase 1 inclusion criteria of this review. Despite the relatively large number of references identified, a review of abstracts and contents showed that there were essentially three different clusters: attestations which referred authors of a study attested to their input; the second group where a fact was being ‘attested to’ in the narrative of the document, and a third a group that included editorials or opinion pieces where attestation was mentioned.

Table 1: Peer reviewed literature search

Keywords searched with "accredit*"	Medline (Not limited to 2000-2017)	Embase	SCOPUS	CINAHL
attest*	18	33	47	7
certif*	2400	3539	5100	810
witness	8	67	77	7
commitment	345	402	614	132
declar*	89	109	188	19
form	620	820	1659	222
sign-off	4	7	3	0
"due diligence"	2	2	8	1

Keywords searched with "accredit*"	Medline (Not limited to 2000-2017)	Embase	SCOPUS	CINAHL
"regulatory attestation"	0	0	0	0
confirmation*	59	102	97	8
"statutory declaration"	0	0	0	0
affidavit	2	1	2	0
affirmation	9	10	18	4
governance body	1	1	2	0
board	1393	1606	2928	557
corporate	68	71	252	18
organisation*	410	513	13163	108
executive	179	188	455	123
officer	57	89	265	56
secretar*	44	50	77	14
"regulatory compliance" OR compliance OR risk OR governance	2236	4359	4911	1045
statement OR sign* OR oath OR verif* OR report* OR affirm*	5935	9855	11,394	2172

Additional searches of Google Scholar using attest# and accredit* and healthcare* and the use of 'snowball technique' in references to attestation produced one emerging area, that of the meaningful use of electronic health records. This field is discussed below.

4.1.1 Meaningful use of electronic health records

The field of attestations in health care is almost entirely restricted to references to the attestations of the "meaningful use" (MU) of Electronic Health Records (EHRs) in the United States (US). In 2009, the Obama Administration tied incentive payments to the use of EHRs to achieve significant improvements in healthcare processes and outcomes

via the *Health Information Technology for Economic and Clinical Health (HITECH) Act* (Blumenthal and Tavenner, 2010).

Part of that process requires services to attest to meeting meaningful use requirements during a continuous 90-day reporting period (Gold and McLaughlin, 2016). The requirements include a set of policy objectives, measures and performance criteria related to quality, safety, efficiency, care coordination, patient and family engagement, as well as other public health priorities. Criteria can be qualitative (e.g. using EHRs to produce lists of patients with certain conditions as part of a process of quality improvement) or quantitative (e.g. reconciling medications for over 50% of care transitions) (Brice et al., 2017).

While the MU studies provide an exemplar for the use of attestation, they do not provide empirical evidence for its effectiveness to date, either for its use as an assurance mechanism or in the context of accreditation. They do, however, provide an example of how this type of mechanism can be utilised in the context of quality and safety mechanisms.

4.2 ANALYSIS OF REGULATORY EXAMPLES OF THE USE OF ATTESTATION

The narrative analysis of the regulatory and accreditation literature identified two accreditation schemes and seven organisations that utilised attestation as part of their process of assurance or verification. The two accreditation schemes, neither of which were Australian, included the:

- The Care Quality Commission (CQC) (England)
- Accreditation Canada (AC).

The organisations identified included the Australian Commonwealth, state and territory bodies, and one international body. The Commonwealth bodies identified were:

- Australian Taxation Office (ATO)
- Australian Securities and Investments Commission (ASIC)

- Auditing and Assurance Standards Board (AUASB)
- Australian Competition and Consumer Commission (ACCC).

The Australian state and territory organisations included are:

- Community Stores Licensing Regime (CSLR) (Northern Territory)
- NSW Health (MoH).

The only international body identified using attestation was the Financial Conduct Authority (FCA) (United Kingdom).

Each of these organisations is considered in turn in the following sections. This includes their role, how they utilise attestation, their circumstances, regulatory frameworks, as well as any consequences of false, misleading or inaccurate attestations made to them by third parties.

4.2.1 USE OF ATTESTATION BY HEALTHCARE ACCREDITATION BODIES

Two international bodies, the Care Quality Commission in England and Accreditation Canada, utilise attestation as part of their processes. The differences in their use shows the relative strength of attestation processes when coupled with formal regulatory powers and responsibility. The Care Quality Commission may demand an attestation and or written representation as to governance arrangements and plans for the improvement of the quality of service, as well as a form of enforceable undertaking to rectification of breaches of the regulations for service providers and managers of health services, including with respect to their Fundamental Standards. The Fundamental Standards address: person-centred care; dignity and respect; consent; safety; safeguarding from abuse; food and drink; premises and equipment; complaints; good governance; staffing; fit and proper staff; duty of candour; and display of ratings (Care Quality Commission, 2017a). Accreditation Canada, in comparison, requires attestation of Board members' acknowledgement that the Board is ultimately responsible for the quality and safety of services.

Care Quality Commission (England)

The Care Quality Commission is England's independent regulator of health and social care. The CQC operates as an executive non-departmental public body, sponsored by the UK Department of Health. The functions, objectives and powers of the Care Quality Commission are enshrined in the *Health and Social Care Act 2008 (Regulated Activities) Regulations 2014* (UK).

The Care Quality Commission monitors, inspects, and regulates health and social services *"to make sure they meet the fundamental standards of quality and safety"* (Care Quality Commission, 2017c). The CQC also publishes its findings, provides performance ratings of services *"to help people choose care"* (Care Quality Commission, 2017c) and prepares regular reports on the state of healthcare in England for the UK Parliament (Care Quality Commission, 2017b). The Act applies in England alone and not across the UK (The Health and Social Care Act 2008 (Regulated Activities) Regulations Act 2014 (UK)).

No ongoing governing body attestation or similar requirements are identified in the *Health and Social Care Act 2008*. However, when requested to do so, a registered person (which includes health services, organisations, providers or managers) must send the Care Quality Commission *"... a written report setting out how, and the extent to which, in the opinion of the registered person"* their organisation complies with the Care Quality Commission standards. They must also identify *"... any plans that the registered person has for improving the standard of the services provided to service users with a view to ensuring their health and welfare"* (The Health and Social Care Act 2008 (Regulated Activities) Regulations Act 2014 (UK)).

It is an offence for a registered person to fail to comply with the request of the Care Quality Commission to provide such a written report (The Health and Social Care Act 2008 (Regulated Activities) Regulations Act 2014 (UK)). Monetary fines apply.

More broadly than powers related to governance and improvement plans, should the Care Quality Commission issue a Warning Notice for breach of its regulations (including

its 'Fundamental Standards') which requires that particular actions be taken by the provider, the provider must provide written confirmation that they have complied with the notice.

Accreditation Canada

Accreditation Canada (AC) is an independent, not-for-profit organisation, which develops standards for healthcare and social services, and offers accreditation against these standards (Accreditation Canada, 2013). Accreditation with Accreditation Canada is voluntary. Accreditation Canada is currently accredited by the International Society for Quality in Health Care (ISQua) (Accreditation Canada, 2013) and undertakes accreditation surveys for health services in Canada, as well as internationally.

Although the Accreditation Canada Governance Standards emphasise the governing body of an organisation *"is ultimately accountable for the quality and safety of the organization's services"* (Accreditation Canada, 2011), formal written processes such as attestation, certification, verification or similar 'signing off' requirements are limited at the governing body level.

Records of activities and decisions of the governing body must also be formally recorded, archived and shared with the organisation (Accreditation Canada, 2011). At the governance level, these are the sole attestation-like requirements.

Under Accreditation Canada's Governance Standard, upon appointment, *"[e]ach member of the governing body signs a statement acknowledging his or her role and responsibilities, including expectations of the position and legal duties"* (Accreditation Canada, 2011). It was not possible, however, to obtain information specific advice as to what sanctions (if any) apply, where an individual fails to uphold the standard that they have previously acknowledged in writing..

4.2.2 USE OF ATTESTATION BY AUSTRALIAN BODIES

In Australia, as discussed in the background section of this report, attestation, written representations and enforceable undertakings are found most commonly in finance and

risk-related industries. Attestation is rarely used as a standalone compliance procedure in the context of board-level responsibilities; rather, attestation generally forms one mechanism within a broader regulatory and compliance framework, known as enforceable undertakings. This section explores the way in which Commonwealth, state and territory regimes use attestation as part of a broad compliance framework of corporate governance and financial regulation.

Most of the focus is at the Federal level, where Australian Government bodies and instrumentalities provide, as the Australian Taxation Office (ATO) indicates, nationwide systems of risk oversight and/or management. These organisations use a combination of attestation, written representations and enforceable undertakings, both exclusively and in combination with each other. The regulatory frameworks also range from recording observations of discrepancies between the attestation and other evidence (e.g. the Australian Taxation Office), through to direct applications for court orders and penalties (e.g. the Australian Competition and Consumer Commission).

Australian Taxation Office

The Australian Taxation Office (ATO) is a Commonwealth body located within the Australian Treasury portfolio. It is the principal revenue collection agency of the Commonwealth. The ATO uses a series of processes which aim to manage risk and provide oversight of processes or organisations within their regulatory domain. As a part of this work, the ATO uses forms of attestation.

The ATO specifies Board-level control of specific taxation compliance procedures, which include periodic internal control testing. Attestation, in this context, takes the form of a documented assurance from senior management. This process involves the presentation of “... a [control] testing plan prepared by management to determine the effectiveness of the control framework. This may include a gap analysis to identify which key controls are not tested via existing assurance processes, for example, internal or external audits” (Australian Taxation Office, 2017b: n.p.). As part of this plan, the Board is required to obtain “documented assurance (such as an attestation) from senior management concerning the capability and capacity of the tax control framework”.

(Australian Taxation Office, 2017b: n.p.). This is to include any findings or deficiencies; remediation plans; implementation dates; and follow-up testing.

If senior management is not able to provide such an attestation, then this is reported to the ATO and an 'observation' is raised within the ATO. The ATO states that "*there are federal, state and territory laws that make directors liable for the actions of their companies*" (Australian Taxation Office, 2017b: n.p.). If a corporation is found to have committed a taxation offence (including by providing inaccurate attestations to the ATO), any person who takes part in the management of that corporation can be considered to have committed the taxation offence. Such offences are considered a crime and the consequences can include penalties, criminal convictions, fines, and prison sentences (Australian Taxation Office, 2017a).

Australian Securities and Investments Commission

The Australian Securities and Investments Commission (ASIC) is a non-corporate Commonwealth entity. It is Australia's integrated corporate, markets, financial services and consumer credit regulator (Australian Securities and Investments Commission, 14 October 2016).

ASIC may accept a written undertaking given by persons or responsible entities in relation to any matter within ASIC's functions and powers under the *ASIC Act* (Australian Securities and Investments Commission, 2016). Where ASIC considers that written undertakings have been breached, ASIC may apply to the Court, seeking various compliance orders. ASIC may also issue infringement notices. These can be accompanied by pecuniary penalties (Corporations Act 2001, Commonwealth of Australia) of up to \$100,000.

Where a person has made a representation regarding financial services, the Australian Securities and Investments Commission may issue a substantiation notice, requiring the individual to produce "*information and/or ... documents ... that could be capable of substantiating or supporting the claim or representation*". Compliance with substantiation orders is mandatory (Corporations Act 2001, Commonwealth of

Australia, s12GY) and in the case of breach, ASIC may apply to the Court, seeking compliance orders.

Auditing and Assurance Standards Board

The Auditing and Assurance Standards Board (AUASB) was established in 2004 as an independent statutory body of the Commonwealth Government, responsible for developing, issuing and maintaining auditing and assurance standards (Auditing And Assurance Standards Board, 2017a). It is within the mandate of the AUASB to formulate auditing standards by legislative instrument, for the purposes outlined by the *Corporations Act 2001* (Corporations Act 2001, Commonwealth of Australia). Consistent with these powers, the AUASB regularly employs attestation in the form of written representations and similar processes as part of its broader compliance framework, primarily, the AUASB's Australian Standards on Assurance Engagements.

A written representation is made by an approved party regarding the compliance of an organisation with specific Australian Standards on Assurance Engagements Standards. 'Approved persons' must have a reasonable basis for the content of written representations; in other words, they must be able to attest to the accuracy of such representations. Independent Assurance Practitioners generally undertake assurance engagements, and as such compliance and enforcement is not relevant. However, where an entity or person makes a written representation which proves to be false, an Assurance Practitioner must include this information in their final Assurance Report.

Assurance Engagements are engagements *"in which an assurance practitioner expresses a conclusion designed to enhance the degree of confidence of the intended users, other than the responsible party, about the outcome of the evaluation or measurement of a subject matter against criteria"* (Auditing and Assurance Standards Board, 2010). Under the Australian Standards on Assurance Engagements, 'assurance practitioner' refers to *"a person or an organisation, whether in public practice, industry, commerce or the public sector, providing assurance services"* (Auditing and Assurance Standards Board, 2010).

The key objectives of assurance engagements are to obtain assurance certain *“subject matter information is free from material misstatement”* (Auditing and Assurance Standards Board, 2014), and to *“express a conclusion regarding the outcome of the measurement or evaluation of the underlying subject matter through a written report that conveys ... [an] assurance conclusion and describes the basis for the conclusion”* (Auditing and Assurance Standards Board, 2014). In the context of assurance engagements, misstatements (including omissions) *“are considered to be material if they, individually or in the aggregate, could reasonably be expected to influence relevant decisions of intended users taken on the basis of the subject matter information”* (Auditing and Assurance Standards Board, 2014).

Attestation is one of the prevalent processes used within the Australian Standards on Assurance Engagements framework: an attestation engagement is an assurance engagement in which *“a party other than the assurance practitioner measures or evaluates the underlying subject matter against the criteria”* (Auditing and Assurance Standards Board, 2014). In an attestation engagement, *“the measurer or evaluator ordinarily provides the assurance practitioner with a written representation about the subject matter information”* (Auditing and Assurance Standards Board, 2014).

Examples of attestation engagements under Australian Standards on Assurance Engagements include *“obtaining assurance on a report prepared by management or management’s expert ... on the sustainability performance of the entity”* (Auditing and Assurance Standards Board, 2014) or *“obtaining assurance on a statement by another party ... of compliance with the relevant law or regulation”* (Auditing and Assurance Standards Board, 2014).

Australian Competition and Consumer Commission

The Australian Competition and Consumer Commission (ACCC) is *“an independent Commonwealth statutory authority whose role is to enforce the Competition and Consumer Act 2010 and a range of additional legislation, promoting competition and fair trading, and regulating national infrastructure for the benefit of all Australians”*

(Australian Competition and Consumer Commission and Australian Energy Regulator, 2016).

Enforceable undertakings comprise a small part of the broad regulatory mechanisms utilised by the ACCC. The ACCC was the first regulator “*granted the power to accept an enforceable undertaking to deal with alleged breaches of the law*” (Nehme, 2008: 27).

The ACCC “*may accept a written undertaking given by a person ... in connection with a matter in relation to which the Commission has a power or function*” (*Competition and Consumer Act 2010*, Commonwealth of Australia, *Trade Practices Act 1974*, Commonwealth of Australia). The ACCC primarily accepts enforceable undertakings “*where a breach, or a potential breach, might otherwise justify litigation*” (Australian Competition and Consumer Commission and Australian Energy Regulator, 2016).

As it accepts enforceable undertakings as an alternative to litigation, if the ACCC considers the undertaking has been breached, the ACCC may apply for a court order (*Competition and Consumer Act 2010*, Commonwealth of Australia). This can include any or all orders including: directing the person to comply with that term of the undertaking; directing the person to pay to the Commonwealth an amount up to the amount of any financial benefit that the person has obtained directly or indirectly and that is reasonably attributable to the breach; and any order that the Court considers appropriate, including directing the person to compensate any other person who has suffered loss or damage as a result of the breach.

In the 2015–16 financial year, the ACCC accepted 13 enforceable undertakings as part of its enforcement function under the *Competition and Consumer Protection Act 2010* (Australian Competition and Consumer Commission and Australian Energy Regulator, 2016). The ACCC believes the use of “*court enforceable undertakings will achieve a key objective of the ACCC; that is, open and transparent markets*” (Australian Competition and Consumer Commission and Australian Energy Regulator, 2016).

4.2.3 STATE AND TERRITORY REGIMES

In Australia, both state and territory regimes use attestation as an assurance mechanism. In this section, we discuss two of the most pertinent schemes: one from the Northern Territory (NT) which addresses issues of alcohol licensing within Aboriginal and Torres Strait Islander communities; the second, used by the Ministry of Health in New South Wales (NSW), relates to corporate governance.

Community Stores Licensing Regime (Northern Territory)

The Community Stores Licensing Regime was initially established in the NT as part of the *Northern Territory National Emergency Response Act 2007* (Commonwealth of Australia). The regime was designed to “*promot[e] food security for Aboriginal communities*” (Cultural and Indigenous Research Centre Australia, 2011). The Secretary of the Commonwealth Department of the Prime Minister and Cabinet is responsible for overseeing the regime, and making determinations regarding licensing.

The Community Stores Licensing Regime utilises enforceable (described as written) undertakings as a mechanism by which the Secretary may elect to enforce the food security provisions of the *Stronger Futures Act*. Within the Act, the Secretary can accept a written undertaking given by a person that the person will, in order to comply with an enforceable provision: take specified action; refrain from taking specified action; or ensure that the person does not contravene an enforceable provision, or is unlikely to contravene such a provision, in the future (*Stronger Futures in the Northern Territory Act 2012*, Commonwealth of Australia).

Where the Secretary considers an enforceable undertaking has been breached, the Secretary may apply for a court order to enforce the terms of the undertaking, including interim injunctions.

NSW Health

NSW Health is a NSW Government Department, responsible for “*patient safety and clinical quality in the NSW health system*” (NSW Ministry of Health, 2005). Under the Reporting on Governance Standards outlined in the ‘Corporate Governance and

Accountability Compendium for NSW Health' (NSW Ministry of Health, 2012), NSW Health requires public health organisations to publish 'Corporate Governance Attestation Statements' (NSW Ministry of Health, 2012), as part of NSW Health's annual performance review framework (NSW Ministry of Health, 2012). Statements are submitted by NSW Local Health Districts, and outline *"the main corporate governance frameworks and practices in operation within the organisation"* (Northern Sydney Local Health District, 2016; Western Sydney Local Health District, 2016), during each financial year. Statements are signed by the Chairperson and Chief Executive of the LHD, following endorsement by resolution of the LHD Board.

NSW Health notes that *"[c]ompliance with the actions in the governance statements does not ensure the quality of governance for the organisation, rather it provides the minimum structural elements for good governance which is necessary to support the organisation to meet its objectives and obligations as a public sector entity"* (NSW Ministry of Health, 2012: 2.06)

In accordance with the template provided by the NSW Ministry of Health, Corporate Governance Attestation Statements comprise written verification that: *"The Board has approved systems and frameworks that ensure the primary responsibilities of the Board are fulfilled in relation to a) ensuring clinical and corporate governance responsibilities are clearly allocated and understood; b) setting the strategic direction for the organisation and its services; c) monitoring financial and service delivery performance; d) maintaining high standards of professional and ethical conduct; e) involving stakeholders in decisions that affect them, and especially engaging with and empowering local clinicians in the design and operation of clinical services; and f) establishing sound audit and risk management practices"* (Northern Sydney Local Health District, 2016; Western Sydney Local Health District, 2016).

Where a public health organisation has not met a governance standard, the Corporate Governance Attestation Statement must *"... include a qualification as to whether the organisation is intending to meet the standard but is still working towards implementation of the minimum actions required, or the reasons the standard is not*

applicable” (NSW Ministry of Health, 2012). The NSW Ministry of Health Corporate Governance and Accountability Compendium does not indicate what occurs if the organisation does not meet this requirement (NSW Ministry of Health, 2012). Whilst the Corporate Governance and Accountability for NSW Ministry of Health does not describe specific enforcement or other like processes, Public Health Organisations (including Local Health Districts, Statutory Health Corporations or Affiliated Health Organisations) are established and made subject to those corporate governance standards by virtue of the *Health Services Act 1997* (NSW). This Act provides broad powers to the Health Secretary (*Health Services Act 1997*, NSW, s122), including the ability to make inquiries as to the administration, management and services of a public health organisation (*Health Services Act 1997*, NSW, s123), enter and inspect those organisations (*Health Services Act 1997*, NSW, s125), and enter into performance agreements (*Health Services Act 1997*, NSW, s126) with public health organisations which are all options available to the Health Secretary in response to compliance with the governance standard.

Annual Internal Audit and Risk Management Attestation Statements are also used by NSW Ministry of Health (NSW Ministry of Health, 2012), and comprise a similar process and purpose as Corporate Governance Attestation Statements, in relation to the NSW Health Internal Audit Policy Directive (Ministry of Health, 2016).

The consequences of false or misleading attestations are not clear. However, where a Board has not met the required governance standard, it may include a qualification to that effect, outlining *“whether the organisation is intending to meet the standard but is still working towards implementation ... or the reasons the standard is not applicable”* (NSW Ministry of Health, 2012).

4.2.4 OVERSEAS REGIMES

In this final section, we outline the ways in which an overseas regime, the Financial Conduct Authority (FCA) in the UK, uses attestation to regulate over 56,000 financial services firms and markets. The FCA is an independent public body funded entirely by the firms they regulate, by charging fees, accountable to the UK Treasury, which is responsible for the UK’s financial system, and to the UK Parliament.

The FCA regulates through a combination of authorisation (of firms and individuals), supervision (intervening if there is evidence of poor behaviour), enforcement (using criminal, civil and regulatory powers), competition law, provision of a handbook and guidance of the FCA's legal instruments and the principles of good regulation (including fundamental principles for both the FCA and the firms it regulates).

Financial Conduct Authority (FCA)

The FCA uses regulatory attestations (Lovejoy and Chan, 2013; Evers, 2015) as a supervisory mechanism in order to ensure firms "are clearly accountable for taking the actions we require on specific issues" (Financial Conduct Authority, 2017). They are generally employed during the FCA's risk-management operations, that is ensuring firms and individuals holding Significant Influence Functions are adequately monitoring and managing risk in relation to consumer financial interests (Financial Conduct Authority, 2017). The Financial Conduct Authority defines attestation as "a firm's formal statement that it will take, or has taken, an action" (Financial Conduct Authority, 2017).

The Financial Conduct Authority generally asks for attestations from regulated firms in the following four circumstances:

Notification: for emerging risks at firms that are unlikely to result in material harm to consumers or to have a negative impact on market integrity. An appropriate person at a firm will attest that they will notify us if the risk changes in its nature, magnitude or extent. The person is responsible for ensuring that the firm appropriately monitors the risk and makes any notifications that are appropriate to [the Financial Conduct Authority].

Undertaking: [the Financial Conduct Authority] want a firm to take specific action within a particular timescale, but the risk is unlikely to result in material harm to consumers or to have a negative impact on market integrity. The attestation promises that the action will be taken.

Self-certification: for a more significant issue, but [one the Financial Conduct Authority] are confident the firm can resolve the issue itself. The attestation promises that the risks have been mitigated or resolved.

Verification: [the Financial Conduct Authority] want a firm to resolve issues or mitigate risks, and ... also want verification of that. The attestation confirms that the action, including verification (eg by internal audit), has been done (Financial Conduct Authority, 2017).

The aim of attestations within the Financial Conduct Authority's regulatory framework is to *"ensure that there is clear accountability and senior management focus on those specific issues where [the Financial Conduct Authority] ... would like to see change within firms, often without on-going regulatory involvement"* (Adamson, 2014: 1). As such, attestations must be *"specific, achievable and have demanding but realistic timelines"* (Financial Conduct Authority, 2017). The Financial Conduct Authority publishes regular statistical data on its website, identifying attestations required by the Financial Conduct Authority during each quarter. Failure by an approved person to comply with Financial Conduct Authority requests for attestations may result in *"action being taken as required and appropriate"* (Adamson, 2014: 2).

Where the FCA determines such breaches have occurred, the FCA may impose on an individual or a firm penalty of any amount as it considers appropriate; suspension for such period as it considers appropriate, any approval of the performance by them of any function to which the approval relates; for such period as it considers appropriate, such limitations or other restrictions in relation to the performance by them of any function to which any approval relates as it considers appropriate; [and/]or publish a statement of their misconduct (Financial Conduct Authority, 2017).

5. DISCUSSION

The findings outlined in this report demonstrate that attestation-like mechanisms are applied in various forms by accreditation and other regulatory agencies, both within and beyond the health sector. The use of this approach is not, however, widely supported by evidence of any kind, including in relation to its specific application in healthcare accreditation. This is not surprising, however, as research into the forms of self-assessment used in accreditation, in general, remains relatively sparse (Hinchcliff et al., 2012).

Importantly, the multiple interpretations of the term attestation itself, along with its variations, could be seen as contributing to the lack of systematic evidence for its efficacy. Attestations and written representations clearly form one side of the spectrum, and represent forms of assurance provided to regulating agencies which ‘attest’ to both the actions of the organisation AND the accurate reporting of those actions (Loconto, 2017; Rissing and Castilla, 2016). Enforceable undertakings, by comparison, attest to an organisations’ commitment to undertake the actions required, requested or mutually agreed. Failure to do so can result in a range of legal consequences (Nehme, 2008).

The two examples presented in this report of the use of attestation in healthcare accreditation, Accreditation Canada and the CQC in England, demonstrate the differences in these approaches. Accreditation Canada requires an attestation by Board members of their and their organisations’ responsibility for quality and safety of care (Accreditation Canada, 2011); whereas the CQC can (if it chooses) require an enforceable undertaking for future plans for improving the quality and safety of care, enforceable by law (Care Quality Commission (UK), 2017). The enforcement mechanisms and outcomes for both the AC and CQC regimes also vary, with enforcement limited to the scope of the AC accreditation scheme on the one hand, whilst the CQC regime is supported by far stronger enforcement mechanisms and potential outcomes established by its enabling legislation.

Attestation is not sufficient as a standalone intervention for use as a regulatory or compliance measure (Australian Prudential Regulation Authority, 2008). Our findings indicate that most Australian regulatory agencies utilise a combination of mechanisms to obtain assurances of either past or future actions, facts or states of affairs, or the veracity of reporting or representation made by organisations (Loconto, 2017). These range from straightforward attestations (accounts) of past behaviour, as in the NSW Health Hospital Corporate Governance requirements (NSW Ministry of Health, 2012), to the Australian Competition and Consumer Commission, which seeks court orders in the face of breaches of enforceable undertakings (Nehme, 2008: 198), or the Australian Taxation Office which utilises a full range of consequences from penalties to criminal convictions (Australian Taxation Office, 2017b).

In between these two extremes are organisations such as the Auditing and Assurance Standards Board, which relies on the credentialing of Independent Assurance Practitioners to ensure the veracity of written representations. This is an example of third-party assurance, where the first party (the organisation under review) collects the data for the attestation, but the audit and review of compliance is undertaken by an independent party, who is neither part of the organisation nor the regulatory body (Loconto, 2017).

A recent paper went so far as to argue that *“Given that health care quality and safety data reporting can be more complex than financial data, a similar [certification] exam could be even more beneficial for ‘quality and safety accountants’, who would be certified to have the requisite skills to offer public attestation on health care quality data. The development of this type of role would likely best be fostered in cooperation with other stakeholders, including other health care organizations and policy makers”* Austin et al. (2017: 172, 174).

Although there may not be need to progress along the lines of specialist assurance practitioners in Australian healthcare accreditation, given the current role and mechanisms of the Australian Commission on Safety and Quality in Health Care, this paper, along with the work undertaken in ‘meaningful use’ of electronic health records

in the US, does indicate a shift in the use of attestation from the realms of financial and corporate regulation to healthcare more broadly. While the evidence base for the use of attestation is not strong, knowledge of the practice of attestation appears common, at least among those tasked with the reporting processes.

The production of attestations for the purposes of reporting in corporate governance is very well established, including in health care. So too is the utilisation of accounts, reports and assurances in clinical governance (Braithwaite and Travaglia, 2008). As the regulatory mechanisms shown here indicate, such schemes operate with the full support of national and state and territory governments, and have done so for decades (Ayers and Braithwaite, 1992). So too has the utilisation of self-assessments as part of the accreditation process (Saghatchian et al., 2009). There is therefore a clear logic to the extension of such an approach to the healthcare accreditation process in general, and to the AHSSQA Scheme in particular. However, the use of attestations in accreditation needs to be considered from a ‘proof of concept’ perspective. This means that given attestation’s strong organisational and regulatory roots, and based on comparisons with similar ‘industries’, there are indications and expectations that attestation could be used to support the Commission’s remit.

Beyond the application of attestation, the consequences of its use will also need to be considered carefully. The consequences of non-compliance with enforceable undertakings or for false or misleading attestations vary significantly, as noted. The submission of false or misleading written representations/attestations can and are managed by intra-regulatory framework sanctions, ranging from publication of breaches (Financial Conduct Authority, 2017) to financial penalties (Financial Services and Markets Act 2000, UK) or a simple breakdown in trust and cooperation between attestation-receiving agencies and attestation-making organisations.

Discounting the deliberate provision of false attestations, published accounts of compliance (or non-compliance) with accreditation requirements (or indeed the need to attest to these) could be seen to operate in the same way as hospital ‘league tables’ in the United States. This is both because they operate as a form of ‘performativity’ of

transparency (Levay, 2016: 404), and because, as Bevan and Wilson reflect in their study of hospital and school league tables in the UK, 'name and shame' indicators work, not because of the information provided to the regulatory body, but because 'no-one wants to be at the bottom of the league table' (Bevan and Wilson, 2013). There is evidence to support the use of public reporting (Ito and Sugawara, 2005); however, as Greenfield et al. (2013a) argue, while the public disclosure of accreditation information has widespread support, its translation into practice remains problematic.

The most comprehensive model of attestation identified in this review provided above was that of the Financial Conduct Authority in the United Kingdom. The FCA's general approach, if not its particular focus, is aligned with the work of the Commission, as are many of its strategies for redress, including the provision of guidance and the establishment of principles (standards) of good practice. The FCA differs from the Commission in its formal powers and role as a formal regulator. This difference is clear in the approaches and availability of enforcement mechanisms and sanctions, with the FCA able to use regulatory as well as civil and criminal sanctions. However, in the case of the Commission, the use of enforcement mechanisms in relation to potential issues or failures related to an attestation, written representation or undertaking might be fruitfully focused primarily upon ongoing and intensified engagement with a quality improvement focus. This would aim to drive improvement in the substantive underlying matter or performance area which an attestation relates to. The Commission would also be able to consider using existing or strengthened reporting or referral pathways between the Commission and relevant state or territory jurisdictions that are responsible for the licensing and regulation of accredited organisations.

6. CONCLUSION

The use of attestation in healthcare accreditation provides a novel if largely unvalidated method with the potential to support existing accreditation processes. Strengthening the links between health service organisations' self-assessments and the consequences for providing incorrect information via such self-assessments is a major challenge in Australia and internationally. Attestation could help to address this challenge. That is to say, attestation has the potential to increase the veracity of organisational assurances of quality and safety through increased transparency and enforced undertakings, tied to strong regulatory requirements that can compel remediate actions if and when services fail to meet the requirements of the AHSSQA Scheme.

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