

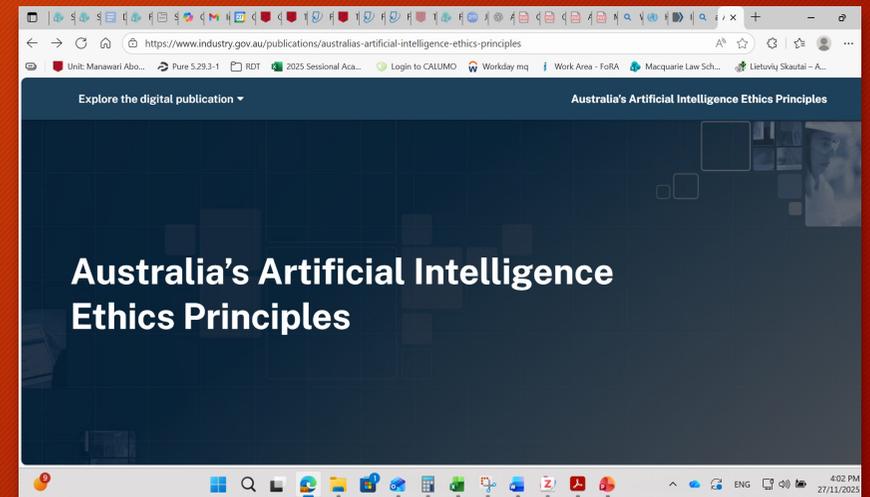
# Healthcare AI: What patients need to know about it?

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# Introduction

- AI transparency principle is listed in numerous international and national documents
- But: what information about AI healthcare stakeholders need and how it should be provided?



## Our Project: ARC DP “No to BlackBox AI: towards transparent and safe AI in healthcare”

1. **AI Transparency needs:** what information patients, clinicians, and healthcare organizations need about AI?
2. **AI transparency gaps and barriers:** what information is currently available about AI medical devices, what are information gaps and barriers in getting access to the relevant information about AI?
3. **Policy solutions:** Based on international best practices, what policy and governance solutions are needed to ensure sufficient transparency around AI in healthcare

# Focus groups on AI transparency needs by patients

- 5 online focus group discussions with health consumers in Australia (each 5-7 participants)
- Three Questions:
  1. Do you want to know that AI is used in your healthcare?
  2. Should you be asked for an informed consent (option to opt out)?
  3. What information do you want to be provided about AI?
- + 3 Case studies:

# Case study 1: AI sepsis detection tool

- *„You’ve just walked into the emergency department. In the waiting room a triage nurse asks you some questions, takes your temperature, blood pressure, heart rate and some other routine measurements and enters these into the computer. An AI tool provides a score for whether there is a risk you may have sepsis, a potentially life-threatening condition which, if not recognised and treated early, can lead to serious illness or even death.*
- *The AI does not replace assessment by triage nurses or doctors but instead provides an extra opportunity for earlier detection and treatment. All patients in the ED waiting room will be seen by a doctor in due course and nurses monitor the waiting room for signs of patient deterioration.“*

## Case study 2: AI scribe

- *“You’re visiting your GP for a routine check-up or to discuss a health concern. During your appointment, your doctor uses an AI-enabled scribe—a digital assistant that listens to your conversation and automatically creates a summary of the visit. It records key details and organises them into medical notes.”*

## Case study 3: AI in screening mammography

- *“As recommended by your GP, you regularly do a screening mammogram to preventatively check for breast cancer. Ordinarily screening mammograms have been independently interpreted by two radiologists who must agree with each other.*
- *However, the new screening program has mammograms interpreted by one radiologist and one AI. The radiologist does not have access to the AI’s findings. Both radiologist and AI must agree on whether the scan is normal or suspicious for breast cancer. If they disagree another radiologist provides a third opinion.”*



# Summary findings

# Should AI be disclosed and should consent be sought - 1

- With relation to AI generally:
  - Almost unanimous wish that all AI use to be disclosed and consent sought
  - Opinions divided on whether disclosure and consent should be required each time or just when an AI is first used.
  - For minority, disclosure of AI use and consent are not necessary when AI is not involved in medical decisions; not concerned about AI use so long as they get the right outcome.



# Should AI be disclosed and should consent be sought - 2

- AI Sepsis tool:
- Some want disclosure and informed consent (but would have given consent)
- Some said it would be acceptable for use of the AI *without* disclosure and consent, due to:
  - the time and health critical nature of emergency,
  - the impracticality of obtaining informed consent (eg if a person is really unwell/unconscious)
  - with this AI tool, the AI supplemented rather than replaced clinicians and
  - belief that use of this AI tool was in their best interests of their health and wellbeing.

# Should AI be disclosed and should consent be sought - 3

## *AI scribe tool*

- Many participants wanted the use of scribes to be disclosed and for their consent to be sought (though most would have given consent).
- Desire to be able to revoke consent at any time, especially in GP practice where conversations might be of a more personal nature.

## *AI screening mammography tool*

- All agreed that this AI tool should be disclosed and opt out opportunity provided, and a significant number would opt out (females more so than males)

# What patients want to know about AI -1

## Information needs about AI Generally:

- What does AI do
- Privacy-related issues: How data is secured, where it is stored, who has access to it, for what purposes it can be used etc
- Quality/ Risks/possible adverse effects: AI accuracy or error rate
- Accountability: the clinician should always review the results

# What health consumers want to know about AI?

## AI Sepsis tool:

- Privacy information - as above
- sepsis risk score and about the treatment for sepsis (one participant)
- whether a doctor would review the AI score (one participant).
- concern about clinicians over relying on the AI
- Interestingly: accuracy was not mentioned

# What health consumers want to know about AI

## AI scribes

- All information about privacy protection - as above
- AI accuracy was a secondary concern: participants raised concerns about errors, as per their experiences with AI summaries and transcriptions from Microsoft Teams and Zoom.

## AI mammography screening tool

- AI accuracy and the risk of errors is a primary concern: a belief that two radiologists are superior to one radiologist and AI.
- Concerns about radiologists losing jobs.
- Privacy, protection of data of secondary importance here.



Name (Print)

Signature

Preliminary insights

# Legal perspective: medical negligence in focus (1)

- *Rogers v Whitaker (1992)*: legal duty to inform patients about “material risks” of the treatment to which a ‘reasonable patient’ would attach significance - liability as a consequence
- Participants confirmed that they want to be informed about AI because, assumingly, they believe AI use increases risks. But does this amount to ‘material risks’?
- Two possible approaches:
  - a) AI technologies pose certain new risks (eg algorithmic errors or bias, automation bias etc) and thus they should be always disclosed OR
  - b) If AI tool does not pose specific *material risks* to a patient (eg, limited role in the entire process, no replacement of human judgement), it does not need to be disclosed

## Legal perspective: medical negligence in focus (2)

- If AI disclosure is legally required in all AI use cases:
  - Patient benefit uncertain (eg overload of information; slowed down clinical processes; increased fear among patients unfamiliar with technology)
  - All AI disclosure would significantly increase **legal compliance burden and legal risks** for clinicians and healthcare organizations
  - Legal coherence/technological neutrality arguments - legal disclosure is not required for all other automated technologies in helathcare, why for AI? Law should be technology-agnostic.
- Thus, a more balanced approach is to limit legal AI disclosure requirements to limited situations: e.g. AI tool poses additional risks to the patient; AI acts autonomously

## Ethical perspective (1)

Providing information to patients and allowing them to choose is important for their autonomy, agency, shared decision making

Generally, AI use should be disclosed and consent/opt out should be made available in many/most cases, at least in this early stages of AI implementation in healthcare

## Ethical perspective (2)

- BUT:
- Should all AI uses be disclosed?
  - Benefits v risks of AI disclosure to patients (overload of information, unreasonable fear, information asymmetry)
  - Effects on efficiency of healthcare services
- Should patients always be given an option to opt out from AI?
  - How a requirement to always allow opt out would affect healthcare services (cost saving)? Would AI realize the promise of increased effectiveness and accessibility?

## Conclusions (preliminary)

- Patients want disclosure about AI (at least currently) =>> To comply with emerging bioethical values, health organizations should inform patients about AI use in most/many cases
- From legal perspective, it is more reasonable to require AI disclosure in limited cases only (eg autonomous AI; AI increases risks)

Thank you!



Any questions?



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