OFF THE RECORD:

AI SCRIBES IN AUSTRALIAN HEALTHCARE

A discussion paper on AI scribes in medical settings in Australia, outlining potential harms, and opportunities for regulation.

Digital Rights Watch with thanks to AWO
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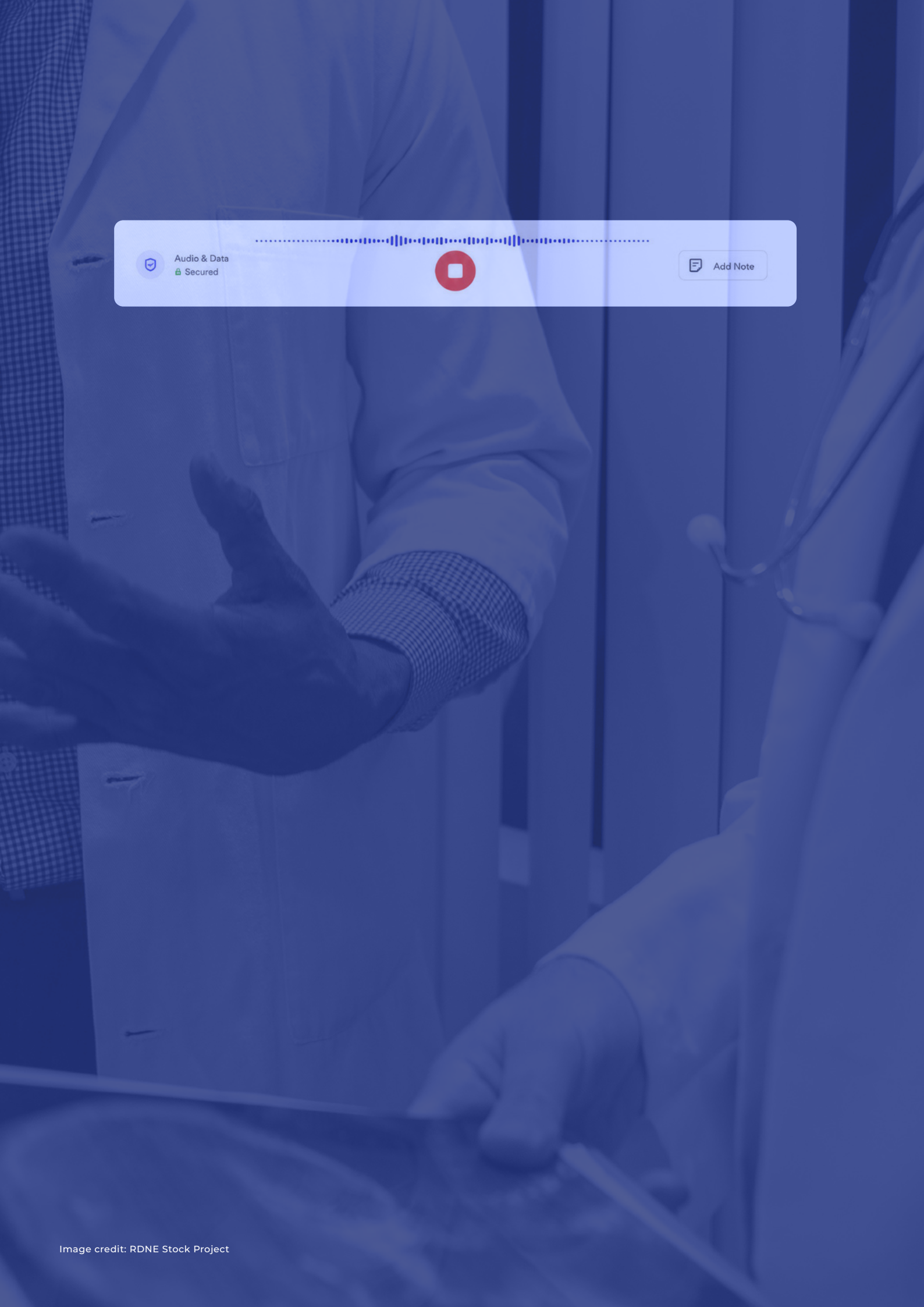

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EXECUTIVE SUMMARY

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Key findings

AI companies are exposing Australians to healthcare systems which are unregulated, untested, and often used without consent.

Primary healthcare providers in Australia are rapidly adopting AI scribes - software tools that record and transcribe clinical consultations. While these tools may offer some administrative benefits for medical practices, this report finds that their rate of adoption is outpacing both regulation and due diligence, creating serious and largely unaddressed risks for patients.

The core problem is a regulatory vacuum.

- The government's current approach to regulating AI relies on regulators to enforce *existing* laws and is not working. Regulators are stretched and lack resources, direction, and authority to keep pace with rapidly-evolving AI technologies.
- Bodies with either relevant responsibilities or the authority to act, including the Therapeutic Goods Association (TGA) and the Office of the Australian Information Commissioner (OAIC), have been slow to assert jurisdiction, and existing applicable laws are not being enforced.
- AI scribe companies provide a worrying lack of transparency. None of the Australian-based vendors we reviewed disclose the underlying AI models they use. Data handling practices vary widely and are unclear.

Patients are not being adequately informed or protected.

- Consent practices are routinely inadequate, typically comprising casual verbal questions or passive signage, and fall well short of the requirements of Australian privacy law. Fewer than 7% of medical providers who use AI scribes mentioned their use in their privacy policies.
- Clinics deny patients the right to refuse, withdrawing care for patients who refuse to consent to the use of this tech, contributing to a lack of trust in both clinics and vendors.
- The primary contractual relationship is between the health care provider and the AI scribe provider, with patients having very little visibility and no control over their exposure to this tech.

The harms of AI scribes are not hypothetical.

- AI scribes reflect and further entrench existing clinical biases, with lower transcription accuracy for patients with non-English accents, speech differences, or from minority backgrounds, as well as gender bias.
- AI scribes, like any LLM, suffer from hallucinations. When AI scribes generate inaccurate clinical content, they pose a direct risk to patient safety.
- There is also a chilling effect on disclosure where patients may withhold sensitive information when they know they are being recorded, particularly for socially-stigmatised conditions such as mental or sexual health.

Recommendations

This report calls for urgent action to bring AI scribes within appropriate regulatory oversight, establish enforceable consent standards, and create meaningful avenues for patients to challenge and seek redress for harms from these technologies.

This report calls for the following specific recommendations:

For Regulators:

- The TGA should publish its digital scribes review and bring AI scribes within regulatory purview for medical devices, registering AI scribes as a medical device, and enforcing against non-compliant vendors.
- The OAIC should issue clear guidance on the use of AI scribes in healthcare settings, covering consent requirements including the right to refuse without loss of care, vendor due diligence obligations, and the limits of de-identification for privacy.
- All regulators must be properly resourced to proactively regulate AI scribes rather than wait for harms to occur, with a framework of shared accountability across vendors, medical practices, and clinicians.

For Government:

- The AI Safety Institute should actively test AI scribe models for bias across accents, languages, gender, and cultural contexts. It should publish its findings and implement a national certification framework establishing a whitelist of approved tools.
- The Government should fund independent research to assess the productivity claims made by AI scribe vendors.
- The Attorney-General should prioritise Tranche 2 of privacy reform, introducing the right to erasure, requirements for meaningful consent (including withdrawal of consent), and mandatory privacy impact assessments before clinics deploy AI scribes.

For Civil Society:

- Patients and those with lived experience must be brought into policy and regulatory conversations about AI scribes in meaningful consultations, not left to raise concerns after harm has occurred.
- A cross-sector coalition of researchers, civil society, and community groups should work together to build the ongoing evidence base needed to understand the systemic impacts of AI scribe tools.

For Industry and Clinicians:

- For the purposes of earning public trust, AI scribe providers should consider transparency and data protection standards that go above bare compliance with current laws.
- Industry must engage with civil society to learn and improve. A proactive approach from industry to concerns around bias, hallucinations and errors requires seeking feedback from patients and clinicians.
- Clinicians and peak professional bodies should consider the risks of using AI scribes, including impacts on patients and clinical outcomes, as part of their procurement decisions.

INTRODUCTION

AI scribes (sometimes referred to as AI notetakers or ambient AI) are increasingly used by GPs and other medical practitioners in Australia to transcribe their consultations with patients and summarise medical notes. Their use by doctors is increasing rapidly, nearly doubling from 22% in August 2024 to 40% in November 2025.[1]

While these tools may offer administrative benefits for medical practices and practitioners, they are increasingly being used in highly sensitive settings, including by psychiatrists, psychologists, and other medical practitioners. The current regulatory environment in Australia is inadequate relative to the serious nature of the use case, and the systemic risks of the technology have neither been considered nor addressed.

Recent news reports have highlighted cases of Australians being denied services due to refusing to consent to the use of an AI notetaker.[2] Experts have also raised a host of concerns relating to privacy, accuracy, and bias, as well as the 'chilling effect' that being recorded can have on patient-doctor communications.[3]

The use of AI scribes in medical settings also raises important issues related to consent under the Australian Privacy Act 1988, including whether patients get a genuine choice in relation to the use of these notetakers, and whether consent is even possible given the power imbalance between a doctor and patient.

Over the last year, Digital Rights Watch has been researching the use of these tools by GPs in Australia. This included commissioning AWO to review the data protection transparency information of a number of AI scribes used in Australia, as well as to undertake research on the privacy compliance of medical practices using these AI scribes.

This report examines the emerging risks associated with the use of AI scribes in Australian healthcare, with a particular focus on privacy, accuracy, bias, transparency, and accountability. It also provides clear recommendations on a way forward that doesn't involve Australians having to compromise their privacy for potential benefits to clinic administration.

> **"I think there do need to be some regulations. I think the first thing is the consent...we had to make our own consent form, but there should be a readily accessible consent form."**
>
> General Practitioner, 1:1 interview subject

1 Josh Taylor, 'Two in five Australian GPs use AI scribes to record patient notes – but do they trade care for convenience?' *The Guardian*, 28 March 2026. https://www.theguardian.com/australia-news/2026/mar/29/doctors-using-ai-for-notes-australia

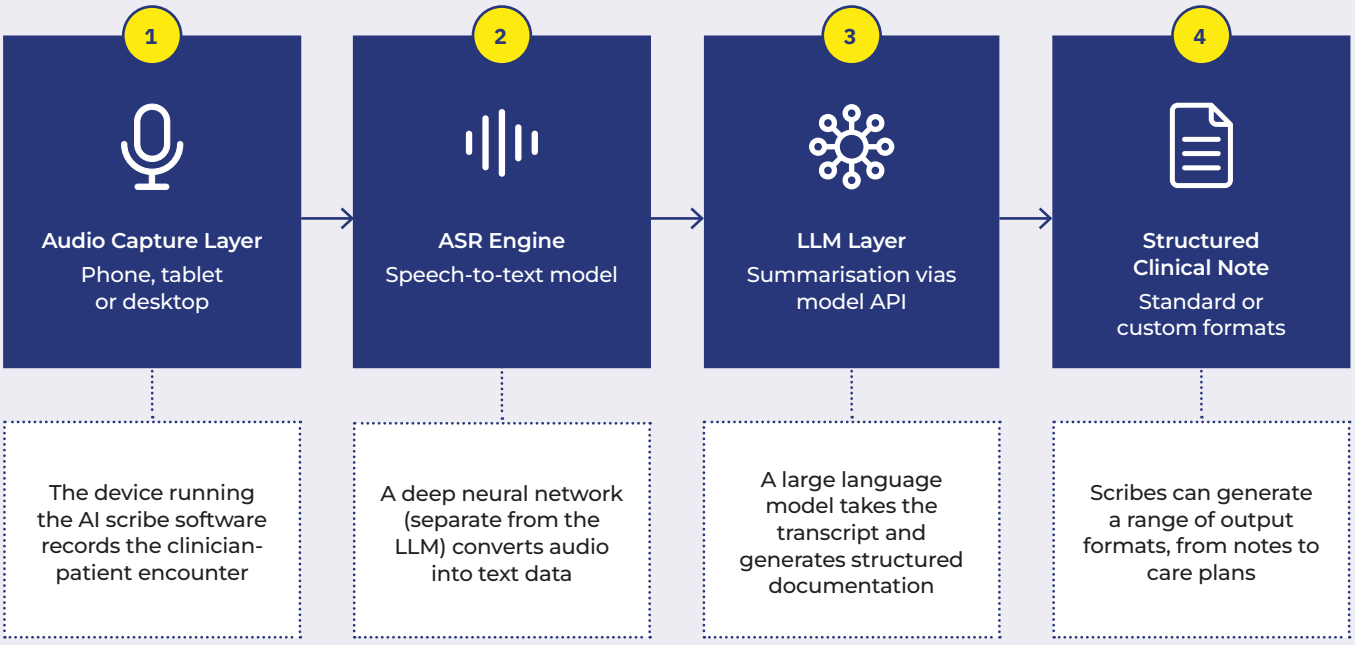
2 Josh Taylor, 'Melbourne psychiatrist refuses new patients who don't consent to AI note-taking.' *The Guardian*, 18 May 2026. https://www.theguardian.com/australia-news/2026/may/19/melbourne-psychiatrist-ai-note-taking-new-patients; Tom Williams, 'Kobi refused a doctor's AI. She was told to go elsewhere.' *Australian Computer Society*, 12 August 2025. https://ia.acs.org.au/article/2025/kobi-refused-a-doctors-ai-she-was-told-to-go-elsewhere.html.

3 See for example: 'Patients should be told when doctors use AI to listen in and take notes, expert says,' *The University of Melbourne*, 18 March 2026. https://www.unimelb.edu.au/newsroom/news/2026/march/patients-should-be-told-when-doctors-use-ai-to-listen-in-and-take-notes,-expert-says; Elizabeth Deveny, 'AI scribes in general practice: support, silence and the shape of care,' *InSight+*, 21 July 2025. https://insightplus.mja.com.au/2025/28/ai-scribes-in-general-practice-support-silence-and-the-shape-of-care

HOW DO AI SCRIBES WORK?

AI scribes are a combination of distinct components that work in sequence. Each component performs a specific task, and together they transform a spoken clinical conversation into a structured written document. The table below illustrates the different components, followed by an explanation of each part.

1	**Audio capture layer**	This relies on the hardware device (phone, tablet, or desktop computer) running the AI scribe software. The internal or external microphone connected to the device captures the audio of the clinician-patient encounter.[4]
2	**Automated speech recognition (ASR) layer**	A dedicated algorithm designed for ASR is used to convert the audio into the text data that forms the transcript.[5]
3	**Generative AI layer**	A Large Language Model (LLM), typically accessed via an API, processes the transcript and generates structured documentation and summaries in return.[6]



4 Royal Australian College of General Practitioners, 'Artificial Intelligence (AI) scribes: Fact sheet.' Last updated 27 October 2025. https://www.racgp.org.au/running-a-practice/technology/artificial-intelligence-ai/artificial-intelligence-ai-scribes.

5 Sarah A Mess et al., 'Artificial Intelligence Scribe and Large Language Model Technology in Healthcare Documentation: Advantages, Limitations, and Recommendations', Plast Reconstr Surg Global. 2025 Jan 16;13(1): e6450. https://doi.org/10.1097/GOX.0000000000006450.

6 Sarah A Mess et al., 'Artificial Intelligence Scribe and Large Language Model Technology in Healthcare Documentation: Advantages, Limitations, and Recommendations', Plast Reconstr Surg Global. 2025 Jan 16;13(1): e6450. https://doi.org/10.1097/GOX.0000000000006450.

Although the term 'AI' is nowadays broadly used to market different kinds of technology, it is critical to properly understand how AI scribes work to clarify what kind of technology we are referring to here. A better term to describe these tools could be 'automated scribes' or 'automatic scribes', in the sense that they automate the process of translating speech into text, as well as transforming the information found in the text into a new text. It is not that these systems *understand* spoken or written language in any way; rather, based on how they interpret certain patterns found in language, they provide a (usually good enough) estimation of what someone might have said, or how a transcription should be transposed in a doctor's note.

To achieve this, AI scribes rely on two types of technology: ASR, and generative AI.

Modern ASR and generative AI models are not too dissimilar: they are underpinned by similar technologies and training methods to achieve different purposes. Recent advances in machine learning (ML) – a technique that allows computers to produce outputs and improve performance by processing large amounts of data rather than by following explicit rules provided by humans – have fundamentally reshaped both ASR and generative AI. Central to this transformation is the adoption of self-supervised and unsupervised learning approaches. These are training methods in which a model ingests large amounts of data and adjusts its settings autonomously, based on the output it produces, without requiring a human to manually label every example used in its training.

In practical terms, this means that both an ASR system transcribing a spoken conversation and a generative AI model drafting a document are built on the same idea: expose the system to vast quantities of raw data and let it self-adjust its outputs until their quality is considered acceptable for the identified purpose.

These systems are therefore probabilistic rather than deterministic in nature. While a modern ASR system predicts the most probable next word given both the audio signal and the text previously transcribed from the same audio, an LLM produces a text by collating words based on the probability that the next one is the one most suited for the identified purpose (e.g., summarising a clinical consultation).

So-called 'foundation models' leverage the capabilities of LLMs for different inputs, including images, text, audio, and video. Such models, as indicated by their name, are the *foundation* of well-known chatbots, such as ChatGPT, Claude, and Gemini, but can also form part of the architecture of systems developed by third parties – such as AI scribes, in our case. Although AI scribe providers do not generally provide transparent information in relation to the underlying technologies they integrate, it is most likely that they rely on foundation models. By implementing so-called 'fine-tuning' – a process by which an organisation 'personalises' an existing model by re-training it on additional, product-specific data – vendors of AI products can usually rely on foundational models as a base and apply them to different use cases.

It is still possible that some AI scribe providers may be relying on models that they develop in-house. Again, this is difficult to determine given the scarcity of open-source information on the topic, however, this approach appears less likely, given the extensive investments that are required to create a completely new LLM from scratch.

Grasping the nature of the technology described above – that is, a technology built on huge amounts of non-specialist data, that produces its results by attributing a probability to the adequacy of strings of text that follow one another – is critical to understanding the risks that are inherent in its use.

AI SCRIBE RISKS

AI Scribe Risks

RISK	RISK CATEGORY	POTENTIAL HARM TO PATIENTS
Inaccurate transcripts of patients' and/or GPs' speech (accents, dialects, medical jargon).	Accuracy	Wrong diagnoses, inappropriate treatments, or missed conditions due to incorrect information in patients' medical records.
AI hallucinations: fabricated clinical details never discussed in the consultation.	Accuracy	False symptoms or conditions entered into the patient record, leading to harmful clinical decisions (e.g., incorrect mental health flags)
Racial and gender bias in transcription and summarisation outputs.	Bias	Systematically poorer-quality recordings of patients from minority backgrounds, women, or those with disabilities, leading to unequal care and entrenched health disparities. A recent study funded by the UK's National Institute for Health and Care Research found that when social workers used Google's AI model 'Gemma', the case note summaries it generated downplayed women's physical and mental health issues as compared to men's.[7]
Over-reliance on AI-generated notes without adequate review.	Oversight	Errors, omissions, or biased language go undetected in the medical record, compounding over time and affecting future clinical decisions.
Lack of genuine informed consent from patients before recording.	Privacy	Patients being unaware their consultations are being recorded and processed by AI, undermining trust in the doctor-patient relationship and violating privacy expectations. Even where consent is provided, it can be argued that due to the power imbalance between doctors and patients, consent cannot be truly genuine.
Covert or insufficiently disclosed collection of patient data.	Privacy	Breach of privacy obligations under the Australian Privacy Act 1988 (Cth) (APP3 and APP5); breach of state surveillance devices laws, leading to the erosion of patient trust and potential regulatory action against the practice.

7 Sam Rickman, 'Evaluating Gender Bias in Large Language Models in Long-Term Care', BMC Medical Informatics and Decision Making 25, no. 274, (2025), accessed 21 August 2025. https://link.springer.com/article/10.1186/s12911-025-03118-0.

RISK	RISK CATEGORY	POTENTIAL HARM TO PATIENTS
Sensitive health data stored or processed offshore by third-party sub-processors.	Privacy	Patient health data (including on mental health, disability, and reproductive information) is exposed to foreign jurisdictions with weaker privacy protections, increasing the risk of breaches or misuse.
Loss of professional clinical judgement and deskilling over time.	Autonomy	Doctors become less skilled at clinical note-taking, observation, and analytical reasoning over time, reducing care quality when AI tools are unavailable or fail.
No right to deletion of AI-processed patient data in Australia.	Governance	Patients are unable to have inaccurate or unwanted AI-generated records corrected or removed, leading to persistent errors in their medical history that affect their future care and insurance outcomes.
No regulation of AI scribe tools as medical devices.	Governance	AI tools providing diagnostic-adjacent services without meeting medical device standards, exposing patients to unregulated clinical risk.
Excessive data collection beyond clinical necessity (ambient recording).	Privacy	Sensitive personal information (overheard conversations, incidental disclosures) captured by ambient recording, potentially used for secondary purposes such as insurance profiling or commercial analytics.
Non-person-centred or overly clinical language in AI-generated records.	Autonomy	Patient records that use dehumanising, overly academic, or impersonal language, making them inaccessible to patients exercising their right to access their own records, and undermining patient-centred care.
Self-censorship by patients – a 'chilling effect' on speech.	Autonomy	Patients may self-censor and choose not to disclose certain information when they are being recorded – whether about domestic violence, child protection, sexual health, stigmatised conditions, drug and alcohol consumption, or other sensitive issues. Experts have noted that healthcare is deeply human; consultations are more than mere transactions or information exchange.[8] The introduction of AI into consultations changes not only what gets recorded, but what gets said.[9]

8 Elizabeth Deveny, 'AI scribes in general practice: support, silence and the shape of care,' *InSight+*, 21 July 2025, accessed 13 May 2026. https://insightplus.mja.com.au/2025/28/ai-scribes-in-general-practice-support-silence-and-the-shape-of-care.

9 Elizabeth Deveny, 'AI scribes in general practice: support, silence and the shape of care,' *InSight+*, 21 July 2025, accessed 13 May 2026. https://insightplus.mja.com.au/2025/28/ai-scribes-in-general-practice-support-silence-and-the-shape-of-care.

RESEARCH APPROACH

Our approach to this work involved desk research, correspondence and meetings with the relevant regulators, a data protection review of commonly used AI scribe tools in Australia, roundtable events with civil society and patient advocacy groups, and consultations with GPs and medical practitioners.

Digital Rights Watch wrote to seven AI scribe companies that work in Australia:

- Heidi Health Trading Pty Ltd, registered in Australia
- Subsidio Pty Ltd (trading as Lyrebird Health), registered in Australia
- Medical Minds AI Pty Ltd (trading as Medow Health), registered in Australia
- Akuru Pty Ltd (trading as i-scribe), registered in Australia
- Silknote Health Pty Ltd, registered in Australia
- Astra Health AI Pty Ltd, registered in Australia
- Nabla Technologies, registered in France with offices also in New York

We specifically asked about their data protection practices, the AI models used, and whether they offered or planned to offer diagnostic services. Only two companies replied. Silknote organised a call to answer our questions and provide valuable insights as to how they have approached their services. Heidi Health provided a detailed response regarding its processing. In addition, we undertook a review of the data processing operations of each of the tools, which raised some key questions in relation to the data processing and privacy practices of AI scribes.

> **"Generally, you don't really have a choice, and this is the fine power dynamic that happens in a patient and doctor situation."**
>
> Community Development Officer
> Multicultural Youth Advocacy Network Australia

We met and corresponded with the TGA regarding their review of AI scribe tools. We also met and corresponded with the OAIC to raise concerns about the privacy practices of AI scribe companies, given their tools' widescale and rapid adoption by medical practices across Australia over the last year.

Our roundtable events involved undertaking a workshop with civil society organisations focused on disability, patient advocacy, youth advocacy, multicultural representation and women's health to better understand experiences and concerns with AI scribe tools, to inform advocacy for improved regulations around this technology. We also arranged consultations with GPs that involved one-on-one in-depth interviews to understand their perspective on AI scribes.

AUSTRALIA'S CURRENT REGULATORY APPROACH

Currently, AI scribes are not regulated in Australia if they only provide transcription and/or summarisation services. As noted in its report, 'Clarifying and strengthening the regulation of Medical Device Software including Artificial Intelligence (AI)', the TGA is undertaking a review of digital scribes.[10]

Digital scribes are regulated as medical devices under the Therapeutic Goods Act 1989 (Cth)[11] if they have a therapeutic purpose and meet the definition of a medical device under section 41BD of the Act. The TGA has stated this means that, generally, digital scribes meet the definition of a medical device if they are intended to:[12]

- diagnose, monitor, predict, provide a prognosis, treat, alleviate, or compensate for a disease, injury or disability;
- investigate the anatomy or a physiological process;
- control or support conception;
- examine specimens derived from the human body for a medical purpose.

If AI scribe vendors are providing, for example, diagnoses, differential diagnoses, or treatment recommendations, their tool is considered a 'medical device' and is required to undergo a regulatory process and be included in the Australian Register of Therapeutic Goods (ARTG) before it can be imported, exported, or supplied in Australia.[13] Currently, there are no AI scribe products on the ARTG, despite AI scribe vendors on the Australian market making claims about these types of services on their websites. Further analysis is described in the following section: Beyond Transcription.

The Australian media has extensively covered how AI scribes currently sit outside the medical device regulatory framework.[14] The Australian Medical Association advocates for the inclusion of AI scribes in TGA regulation because they play a 'supportive role in clinical decision-making', and for the law to clearly apportion liability for developers of these transcription tools. The Consumers Health Forum of Australia's 2024 Health Panel survey on AI demonstrated significant concerns around misdiagnosis, bias, privacy issues, and the preservation of human elements in care.[15] Leading Australian academics have also raised concerns about the lack of regulation of AI scribes in medical settings in Australia.[16]

Further reform of the Privacy Act 1988 (Cth) and guidance on this point by the OAIC would assist in clarifying obligations in relation to AI scribes' transcription services.

10 Therapeutic Goods Administration, *Clarifying and strengthening the regulation of Medical Device Software including Artificial Intelligence (AI): Outcomes from the review of therapeutic goods legislation, regulation and guidance* (Australian Government Department of Health, Disability and Ageing, July 2025). https://consultations.tga.gov.au/tga/clarifying-and-strengthening-the-regulation-of-ai/supporting_documents/tga-report-clarifying-and-strengthening-the-regulation-of-medical-device-software-including-artificial-intelligence-aipdf

11 Federal Register of Legislation, '*Therapeutic Goods Act 1989*' (Australian Government). https://www.legislation.gov.au/C2004A03952/latest/versions

12 Therapeutic Goods Administration. "Digital scribes: When digital scribes are regulated as medical devices." Last updated 30 January 2026. https://www.tga.gov.au/products/medical-devices/software-and-artificial-intelligence-ai/overview/types-software-based-medical-devices/digital-scribes

13 Therapeutic Goods Administration. "Digital scribes: When digital scribes are regulated as medical devices." Last updated 30 January 2026. https://www.tga.gov.au/products/medical-devices/software-and-artificial-intelligence-ai/overview/types-software-based-medical-devices/digital-scribes.

14 See for example: Carly Kind, 'Upend privacy laws for AI at the GP? This will not benefit patients' *Australian Financial Review*, 14 August 2025. https://www.afr.com/politics/federal/upend-privacy-laws-for-ai-at-the-gp-this-will-not-benefit-patients-20250813-p5mmht and, Megan Prictor, 'We need to regulate the 'Wild West' of medical AI scribes', *Pursuit: University of Melbourne*, 18 March 2026. https://pursuit.unimelb.edu.au/articles/we-need-to-regulate-the-wild-west-of-medical-ai-scribes; Josh Taylor, 'Melbourne psychiatrist refuses new patients who don't consent to AI note-taking.' *The Guardian*, 18 May 2026. https://www.theguardian.com/australia-news/2026/may/19/melbourne-psychiatrist-ai-note-taking-new-patients.

15 *Results of Australia's Health Panel survey on Artificial Intelligence in 2024* (Consumer Health Form of Australia, July 2024). https://www.datocms-assets.com/144433/1734563635-what_australias_health_panel_said_about_artificial_intelligence_in_healthcare.pdf

16 'Patients should be told when doctors use AI to listen in and take notes, expert says,' *The University of Melbourne*, 18 March 2026. https://www.unimelb.edu.au/newsroom/news/2026/march/patients-should-be-told-when-doctors-use-ai-to-listen-in-and-take-notes,-expert-says. See comments by Dr Megan Prictor: 'We need the Therapeutic Goods Administration to set rules around its use, and greater transparency about where our health information is going. Some scribe products store patient data for shorter or longer periods, making it vulnerable to hacking.'

Currently, legal responsibility remains with the clinician. Law firms drawing attention to medical negligence liability issues surrounding these tools note that, ultimately, the doctor is responsible for the accuracy of a patient's medical record, and medical records are the evidence on which medical negligence claims stand or fall. If the AI scribe makes a mistake, such as 'mishearing' a key symptom, omitting a crucial detail, or misinterpreting a word due to a variation in accent, the doctor who fails to correct the record is likely to be held liable. In our consultations with GPs, it was noted that GPs have been informed by their insurance companies that any errors generated by AI scribes that result in malpractice will not be covered and therefore GPs understand that they are ultimately responsible for accuracy of notes[17].

Contrasting international approaches

On 9 June 2025, NHS England issued guidance[18] that **all AI scribes with summarisation functionality** must have[19] at least Class 1 medical device status[20] approval from the Medicines and Healthcare products Regulatory Agency (MHRA). All AI tools that can produce diagnoses must have Class 2a approval from the MHRA. This means all AI scribes that have a summarisation function must undergo an extensive governance compliance process in the UK and be registered with the MHRA.

The BMJ states: 'The new regulatory classification of AI scribes as "software as a medical device" puts the status of AI scribes in the UK in line with their status in the EU and the US.'[21] As the British Dental Journal explains:

[T]he software often does more than just transcribe verbatim as its primary value proposition is around summarising information. This requires synthesis and loss of information, thereby risking embedding of biases, and fabrication or omission of information [...] This loss and synthesis of information qualifies the software as a medical device, and therefore subject to all the rules and regulations that apply to medical devices.[22]

We note the Australian approach is weaker than the UK's, where summarisation alone is sufficient grounds for classification as a medical device. Given that NHS England's Guidance recognises that summarisation involves synthesis and the loss of information – which risk introducing bias, fabrication, and omission – it is unclear why Australia is currently taking a different approach.

In New Zealand, Health New Zealand has endorsed the use of four AI scribe providers for use within the public health system based on the information we could find[23]. Complaints have been raised to the Privacy Commissioner about the use of AI scribes.[24]

17 Essential Research and Digital Rights Watch, AI Transcription in Healthcare Workshop Insights Report, 29 April 2026.

18 Nelson Advisers. "NHS England issues guidance on Ambient Voice Technology Ensuring Safe and Assured Adoption of AI Scribes." Published 9 June 2025. https://www.healthcare.digital/single-post/nhs-england-issues-guidance-on-ambient-voice-technology-ensuring-safe-and-assured-adoption-of-ai-scr

19 Lloyd Price, 'NHS England warns on non-compliant AVT solutions' *LinkedIn*, 2025. https://www.linkedin.com/posts/lloydgprice_nhs-england-issues-guidance-on-ambient-voice-activity-7339004864909246465-4T7Q

20 Gov.UK. "Guidance on class 1 medical devices." Published 4 October 2016, last updated 1 July 2023. https://www.gov.uk/government/collections/guidance-on-class-1-medical-devices

21 Lara Shemtob et al., 'Regulation of AI scribes in clinical practice', *BMJ 389*, (2025): r1248. https://doi.org/10.1136/bmj.r1248.

22 T. Evans and J. Hogg, 'NHS England guidance on AI scribes', British Dental Journal 239, 154 (2025). https://doi.org/10.1038/s41415-025-9061-0

23 Adam Ang, 'New Zealand expanding national AI scribe rollout to emergency mental health', Healthcare IT News, 8 March 2026. https://www.healthcareitnews.com/news/anz/new-zealand-expanding-national-ai-scribe-rollout-emergency-mental-health

24 Joanne Naish, 'Concerns raised with Privacy Commissioner about AI transcription tools in healthcare' *The Press*, 25 May 2026. https://www.thepress.co.nz/nz-news/361008505/concerns-raised-privacy-commissioner-about-ai-transcription-tools-healthcare

In California, litigation is emerging around the use of AI scribes in healthcare settings. One of Southern California's largest healthcare systems is facing a potential class-action lawsuit alleging that its use of AI to 'secretly' record patient-clinician conversations violates state consumer privacy laws.[25] The plaintiff in the case alleges that his consent was not sought, nor was he informed of the use of the tool, the audio was captured using a clinician's microphone-enabled device without his knowledge, transmitted to a third-party vendor's cloud, and used to draft a clinical note. The plaintiff later discovered documentation on the patient portal indicating he had been 'advised' that audio of the consultation was being recorded, and that he had 'consented' – claims he argues are false.[26] Separately, a lawsuit has been filed in the U.S. District Court for the Northern District of California against two healthcare organisations over their use of an AI-based tool that records conversations between patients and clinicians, and transmits the audio files externally for processing and transcription. The plaintiffs allege they had a reasonable expectation that their sensitive conversations with clinicians would remain private and confidential, and that at the time of their visits they were unaware their conversations were being recorded by an AI platform and transmitted externally and processed by a third-party system.[27]

Lack of guidance

Guidance, accompanied by appropriate training, is important for medical practices and practitioners. Currently, the guidance available to Australian GPs and practices on AI in clinical settings is helpful but quite high-level.[28] Further support is needed for the Australian medical profession to ensure that tools are appropriately implemented, especially where there is a lack of clear regulation and enforcement. For those medical practices and practitioners who want to make informed choices by undertaking due diligence in selecting an AI tool, there is not much material available to assist making decisions. In the UK, NHS England's guidance on the use of ambient scribes[29] provides a solid implementation framework, covering the different input and output information functions, regulatory compliance steps, data compliance and security, integration with electronic patient records, piloting process and relevant considerations, monitoring, user-training, and liability.

The process for medical practices selecting a vendor and AI scribe tool is currently unclear, especially as no detailed vendor due-diligence guidance has yet been issued by a trusted authority to support medical practices.

25 Steph Weber, 'Health System Sued Over AI Scribe Technology, Patient Consent' *Medscape*, 16 January 2026. https://www.medscape.com/viewarticle/health-system-sued-over-ai-scribe-technology-patient-consent-2026a10001k7?form=fpf

26 Steph Weber, 'Health System Sued Over AI Scribe Technology, Patient Consent' *Medscape*, 16 January 2026. https://www.medscape.com/viewarticle/health-system-sued-over-ai-scribe-technology-patient-consent-2026a10001k7?form=fpf

27 Steve Alder, 'Lawsuit Alleges AI Platform Illegally Recorded Patient-Clinician Conversations' *The HIPAA Journal*, 14 April 2026. https://www.hipaajournal.com/lawsuit-ai-platform-illegally-recorded-patient-clinician-conversations/

28 See for example: Australian Health Practitioner Regulation Agency & National Board, 'Meeting your professional obligations when using Artificial Intelligence in healthcare'. Last updated 22 August 2024. https://www.ahpra.gov.au/Resources/Artificial-Intelligence-in-healthcare.aspx; *AI Clinical Use Guide*, Australian Commission on Safety and Quality in Healthcare, (2025). https://www.safetyandquality.gov.au/resources/ai-clinical-use-guide; Royal College of Australian General Practitioners, 'Conversational artificial intelligence (AI)'. Last updated 16 September 2025. https://www.racgp.org.au/running-a-practice/technology/artificial-intelligence-ai/conversational-artificial-intelligence; and Royal Australian College of General Practitioners, 'Artificial Intelligence (AI) scribes: Fact sheet.' Last updated 27 October 2025. https://www.racgp.org.au/running-a-practice/technology/artificial-intelligence-ai/artificial-intelligence-ai-scribes.

29 NHS England, 'Guidance on the use of AI-enabled ambient scribing products in health and care settings.' 27 April 2025, updated 24 April 2026. https://www.england.nhs.uk/long-read/guidance-on-the-use-of-ai-enabled-ambient-scribing-products-in-health-and-care-settings/

Image credit: Nappy from Unsplash

A guide for using AI Scribes in the medical sector

We have published a guide for medical practices and practitioners. It includes:

- a quick start guide for implementing an AI scribe
- a checklist for using AI scribes responsibly and ethically in your practice
- FAQs for GPs and practices
- Templates to support with updating privacy policies, consent wording and a waiting room notice
- Vendor due diligence checklist

> **"The insurance company that insures me against being sued... they have already come out and I haven't read that in detail, but they've provided warnings (that) if the AI scribe makes an error, it's going to be no defence for you."**
>
> General Practitioner, 1:1 interview subject

BENEFITS, RISKS, AND REFORM

Our interviews with GPs in Australia show there is some agreement among GPs that AI scribes can benefit both patients and GPs.[30]

However, our research demonstrates that the risks are currently being overlooked, even as these tools are rapidly adopted without appropriate regulation in place.

Productivity claims

Evidence is emerging on the benefits that AI scribes can offer in terms of positively shifting physicians' perceptions of documentation processes, and improving physician productivity and satisfaction.[31]

Some research, however, moderates at least some of these claims by suggesting productivity gains may be more modest than they first appear.[32] Concerns have also been raised about the impact on the patient experience, including doctors remembering less about their patients' histories, transcription errors, errors in accent recognition, consultations remaining just as rushed,[33] and the amount of time spent by GPs reviewing AI- generated notes.

Suggested interventions

- Government should invest in commissioning further research on the potential productivity benefits from AI scribes in healthcare, especially where publicly funded or run. The Australian government can fund research or undertake pilots of AI scribe tools across healthcare, aged care, and other public sector contexts, which assess productivity benefits.
- Capturing ongoing evidence will be essential to understanding the long-term and system-wide impacts of AI scribe tools in clinical settings. Achieving this will require coordinated efforts by researchers, civil society, and policymakers.[34]

30 Essential Research and Digital Rights Watch, AI Transcription in Healthcare Workshop Insights Report, 29 April 2026.

31 See for example: Anastasia Pozdynyakova et al., 'Impact of Medical Scribes on Physician and Patient Satisfaction in Primary Care', *Journal of General Internal Medicine 33*, no.7 (2018): 1109-1115. https://doi.org/10.1007/s11606-018-4434-6; Naga Sasidhar Kanaparthy et al., 'Real-World Evidence Synthesis of Digital Scribes Using Ambient Listening and Generative Artificial Intelligence for Clinician Documentation Workflows: Rapid Review', *JMIR AI*, (2025). https://doi.org/10.2196/76743 and Kevin Pearlman et al, 'Use of an AI Scribe and Electronic Health Record Efficiency', JAMA Netw Open. October 2025 https://pubmed.ncbi.nlm.nih.gov/41071550/.

32 A US study, for example, tracked AI scribe use across five hospitals for more than two years and found that this led to only a 16-minute reduction in time spent on documentation (around -10%), leading to just 0.5 additional patient visits per week. Lisa Rotenstein et al., 'Changes in Clinician Time Expenditure and Visit Quantity With Adoption of Artificial Intelligence-Powered Scribes: A Multisite Study', *JAMA 335*, no.16, (2026): 1408-1417. https://doi.org/10.1001/jama.2026.2253. Other studies show similar figures for documentation and EHR use, and documentation time reduction. See, for example: Jonathan Yum En Tan, 'Impact of an Ambient AI Scribe Among Clinicians and Patients: Real-World Prospective Observational Time-Motion Study', *JMIR Med Inform 14*, (2026): 14:e85580. https://doi.org/10.2196/85580; Cheryl D. Stults et al., 'Evaluation of an Ambient Artificial Intelligence Documentation Platform for Clinicians', *JAMA Network Open 8*, no.5, (2025): e258614. https://doi.org/10.1001/jamanetworkopen.2025.8614.

33 Elizabeth Deveney, 'AI scribes in general practice: support, silence and the shape of care,' *InSight+*, 21 July 2025, accessed 12 May 2026. https://insightplus.mja.com.au/2025/28/ai-scribes-in-general-practice-support-silence-and-the-shape-of-care.

34 Lara Groves and Oliver Bruff, *Scribe and Prejudice? Exploring the Use of AI Transcription Tools in Social Care* (Ada Lovelace Institute, 11 February 2026), p.10, accessed 12 May 2026. https://www.adalovelaceinstitute.org/wp-content/uploads/pdfs/33783/scribe-and-prejudice.pdf?v=1778241451

Privacy concerns

Melbourne psychiatrist: refusing patients who don't consent to AI scribe

A Melbourne psychiatrist has refused new patients unless they agree to allow her to use an AI scribe to transcribe the conversations in their sessions.[35] In a recent report by the Guardian Australia, a psychiatrist presented the below 'consent' wording in their registration form:

"I consent for use of AI scribe (such as Heidi health AI/ Microsoft) software to assist with notes taking during the appointments, for preparation of clinical letters, reports, and other clinical documents to assist in my clinical care[36]."

The patient was told if they do not wish AI to be used they will *"need to arrange [their] regular doctor/ referring doctor to refer [them] to a different service provider.[37]"*

This is clearly not a genuine form of consent and therefore is unlawful – it is not adequately informed nor is it voluntary as required by Australian Privacy Principle 3. It also does not meet OAIC requirements for unbundled consent, nor the ability to withdraw consent.[38] It is essentially saying "consent or go elsewhere".

Anonymous account: no consent

A patient's father shared with us his experience of taking his young son for treatment and an AI scribe being used by the GP without any consent.

The fact the AI was being used was only identified when the GP began saying things the father couldn't hear, leading the father to ask whether the GP was talking to him? The GP explained at that point that he was using an AI scribe, however no consent was sought prior to the collection of the sensitive personal information of his young child.

The father asked the doctor for information about it, and none was available, nor was any posted at the reception desk when the father asked after the appointment.

When the subsequent case-note was sent to the father, it said that consent had been sought and granted, despite the fact that that was not the case.

> **"People with disability are concerned over whatever tool that might take away their independence."**
>
> Senior Policy Officer
> People with Disability Australia

35 Josh Taylor, 'Melbourne psychiatrist refuses new patients who don't consent to AI note-taking.' *The Guardian*, 18 May 2026. https://www.theguardian.com/australia-news/2026/may/19/melbourne-psychiatrist-ai-note-taking-new-patients.

36 Josh Taylor, 'Melbourne psychiatrist refuses new patients who don't consent to AI note-taking.' *The Guardian*, 18 May 2026. https://www.theguardian.com/australia-news/2026/may/19/melbourne-psychiatrist-ai-note-taking-new-patients.

37 Josh Taylor, 'Melbourne psychiatrist refuses new patients who don't consent to AI note-taking.' *The Guardian*, 18 May 2026. https://www.theguardian.com/australia-news/2026/may/19/melbourne-psychiatrist-ai-note-taking-new-patients.

38 Office of the Australian Information Commissioner 'Consent to the handling of your personal information', accessed 2 June 2026. https://www.oaic.gov.au/privacy/your-privacy-rights/your-personal-information/consent-to-the-handling-of-personal-information#section-bundled-consent.

AI scribes are being rapidly adopted across Australia, including in highly sensitive healthcare contexts such as psychiatry, psychology, and children's mental health services. However, there is limited clarity for patients about how their sensitive medical information is being collected, used, and shared. Our review of the data protection policies of both AI scribe vendors and healthcare providers points to gaps in privacy compliance, particularly in relation to transparency, privacy safeguards, and compliance with legal obligations.

There are growing concerns that many patients are not being adequately informed of the use of AI scribes, nor is genuine consent consistently obtained, despite the requirements under the Australian Privacy Act 1988 (Cth). As uptake accelerates, it is critical to ensure that the handling of patient data by clinicians and third-party providers aligns with patients' reasonable expectations of confidentiality and complies with the APPs.

As we have seen in Australia, the risk to patient data in the context of healthcare is significant. High profile data breaches at Australian Clinical Labs,[39] Medibank,[40] and Genea[41] are key examples.

> **"AI transcribing, it could suggest things. I think what it might do is it might push investigations, push drugs that are not needed"**
>
> General Practitioner, 1:1 interview subject

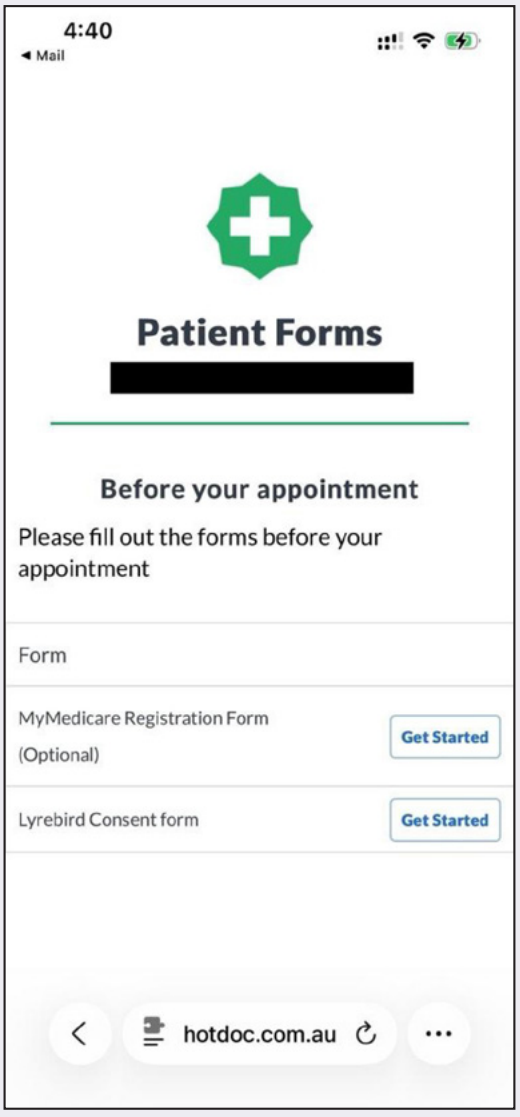


Image 1: This screenshot demonstrates a clinic where consent is not optional. Without providing consent, it is not possible to make a booking.

39 Office of the Australian Information Commissioner, 'Australian Clinical Labs ordered to pay penalties in relation to Medlab Pathology data breach in first for Privacy Act.' 9 October 2025. https://www.oaic.gov.au/news/media-centre/australian-clinical-labs-ordered-to-pay-penalties-in-relation-to-medlab-pathology-data-breach-in-first-for-privacy-act

40 Office of the Australian Information Commissioner, 'Medibank data breach: alleged timeline.' https://www.oaic.gov.au/__data/assets/pdf_file/0037/228979/Medibank-data-breach-alleged-timeline-infographic.pdf

41 Rhiana Whitson, 'Genea patients want IVF giant held to account as cybersecurity expert raises ongoing concerns', *ABC News Australia*, 11 November 2025. https://www.abc.net.au/news/2025-11-12/genea-ivf-data-breach-fallout-ongoing-cyber-concerns-raised/105984716

Privacy compliance

We reviewed 60 privacy policies of Australian medical providers who feature on the websites of AI scribe vendors as customers, or are otherwise identified as using the tool. **Of the 60 privacy policies we reviewed, only 4 explained the use of AI scribes.**

Our research on the privacy practices of medical practices and practitioners suggests:

- Medical practices have generally not updated their privacy policies to reflect the use of AI scribes, as required under APP1.4 on how personal information is collected and held (in this case by AI scribes or audio recording). This is also required under OAIC guidance. APP5 also requires notification of the collection of personal information, including the circumstances and purposes of the collection.
- Appropriate, specific, and granular consent for the collection of sensitive health information is generally not being sought by clinicians in line with APP3 and guidance from the privacy regulator, the OAIC.[42] In certain Australian jurisdictions, the recording of a private conversation without the consent of the parties involved may constitute a criminal offence.[43]
- Even where consent is obtained, the power imbalance between the medical practitioner and the patient must be taken into account. Often consent is sought without providing specific information, including what tool is being used, where personal data will be stored, or how long recordings will be retained. Sometimes the requirements of consent under the APPs are clearly not met. In one example reported by The Guardian, a waiting room poster informed patients that an AI scribe was in use at the practice and that, 'by reading this, you understand that your consent is being given'.[44] Concerns have also been raised by experts about whether consent can be legitimate and genuine given the power imbalance between doctors and patients. As Elizabeth Deveny, CEO of the Consumers Health Forum, noted in an article in the Medical Journal of Australia, given these power imbalances, a rushed 'This okay with you?' at the start of a consultation may not constitute meaningful consent.[45]

60 **Medical Providers Reviewed**
Total sample across all AI scribe tools

13 **No Privacy Policy**
Practices with no privacy policy published on their website

3 **Reference Audio / Video**
Policies referencing the collection of voice or audio-visual recordings

4 **Reference AI Scribe**
Policies that explicitly name or describe the AI scribe tool in use

42 Office of the Australian Information Commissioner, 'Consent to the handling of personal information guidance.' Accessed 18 May 2026. https://www.oaic.gov.au/privacy/your-privacy-rights/your-personal-information/consent-to-the-handling-of-personal-information.

43 Royal Australian College of General Practitioners, 'Artificial Intelligence (AI) scribes: Fact sheet.' Last updated 27 October 2025. https://www.racgp.org.au/running-a-practice/technology/artificial-intelligence-ai/artificial-intelligence-ai-scribes.

44 Josh Taylor, 'Two in five Australian GPs use AI scribes to record patient notes – but do they trade care for convenience?' *The Guardian*, 28 March 2026. https://www.theguardian.com/australia-news/2026/mar/29/doctors-using-ai-for-notes-australia

45 Elizabeth Deveney, 'AI scribes in general practice: support, silence and the shape of care,' *InSight+*, 21 July 2025, accessed 12 May 2026. https://insightplus.mja.com.au/2025/28/ai-scribes-in-general-practice-support-silence-and-the-shape-of-care.

There is also no clarity regarding the right to refuse this type of processing. Recently, an Australian who refused the use of an AI notetaker was told that the medical practice could not provide services as a result.[46] In another recent example, a Melbourne-based psychiatrist recently made headlines by refusing new patients unless they agree to her use of an AI scribe to transcribe their sessions.[47]

We also reviewed the **data protection information and policies of 7 major AI scribe providers in the Australian market.** We identified a number of issues that cut across the market:

- AI scribe vendors put forward different statements on whether personal information is used to train their models, with many stating that they do use personal information including sensitive health information for training their AI, or in some cases use de-identified or aggregate information. This creates significant risks related to Australians' privacy as appropriate consent is generally not being sought for this separate use of sensitive personal information. It also raises concerns both in terms of the potential for re-identification, as well as whether simply removing a name or identifiers from a patient and inserting the remaining data into a system is ethical or appropriate, given the sensitive personal nature of medical experiences and conditions. De-identified data can frequently be re-identified. The rarer or more stigmatised a patient's condition, the easier it may be to re-identify them. It is very unlikely that medical practices and practitioners are even aware of this secondary use of data currently. Heidi Health confirmed in writing that it does not use consultation data to fine-tune underlying language models or for other secondary commercial purposes, regardless of whether data has been de-identified or pseudonymised.
- Many AI scribe providers set default retention periods and allow users to adjust them based on their preferences. However, these retention periods do not appear to apply to audio recordings – most, if not all, AI scribe providers explicitly claim to discard audio as soon as it is transcribed. While framed as data minimisation, this can limit accuracy checks when errors occur as audio cannot be reviewed.
- Data protection practices vary between tools, but in all cases there is very little information available about the underlying AI model used.
- Many AI scribes state they store data locally, in Australia. However, most also mention the use of third-party vendors, without making clear where these vendors are based. Given the supply chain of this kind of technology – which most likely relies on transcriptions being sent to model providers via Application Programming Interface (API) calls – it is possible that data may be sent overseas, triggering additional APP requirements and additional risk. Any data stored in a commercial cloud provider like Amazon Web Services or Microsoft Azure will be subject to US CLOUD act disclosure requirements.
- Some AI scribes use patient data beyond transcription (e.g., for analytics, product development, and model training), often without providing clear detail. This may require separate, specific patient consent under current laws.

46 Tom Williams, 'Kobi refused a doctor's AI. She was told to go elsewhere.' *Australian Computer Society*, 12 August 2025. https://ia.acs.org.au/article/2025/kobi-refused-a-doctors-ai-she-was-told-to-go-elsewhere.html

47 Josh Taylor, 'Melbourne psychiatrist refuses new patients who don't consent to AI note-taking.' *The Guardian*, 18 May 2026. https://www.theguardian.com/australia-news/2026/may/19/melbourne-psychiatrist-ai-note-taking-new-patients.

Suggested interventions

- The OAIC should issue guidance on the use of AI scribes in high-risk settings such as healthcare (potentially extending to aged care and social services) which expressly confirms how specific consent needs to be recorded at the outset, and the individuals' right to refuse and to withdraw consent. In addition, the guidance should include minimum vendor due diligence obligations, and clarify that secondary use of patient data should not be allowed without specific, explicit and separate consent. This should also stipulate that simply stripping out a name does not qualify as 'de-identification' or true anonymisation.
- Privacy laws, which shape the trajectory of AI technologies, need to be updated with Tranche 2 reform including:
  - the right of erasure;
  - the right to withdraw consent at any time, and the threshold for valid consent;
  - mandating that privacy impact assessments must be undertaken prior to introducing new tools involving sensitive personal information processing, including AI scribes.
- The OAIC should consider undertaking a regulatory sandbox with Australia's largest and most widely-used AI scribe companies in healthcare settings, and consider investigating their practices.
- The OAIC should enforce against medical practices and vendors that are in breach of the APPs. For example, practices that have not updated their privacy policies, are not obtaining lawful consent, or are undertaking any automated decision-making without the required transparency.
- Regulators need to be encouraged, coordinated, and resourced to proactively regulate new technologies like AI scribes, rather than wait for complaints or direction from government. This can be guidance or other forms of regulation. Above all, there should be clear regulations regarding the right for individuals to refuse the use of an AI scribe in medical settings.

Accuracy and bias

There are significant accuracy and bias concerns regarding AI scribe tools as they can result in significant harm in a medical context, including downstream consequences for treatment and diagnosis. For example, false or 'hallucinated' symptoms or conditions entered into the patient record can lead to harmful clinical decisions (such as incorrect mental health flags). AI scribes may have varying success with some accents or regional dialects, and struggle when participants speak English as a second language, or are affected by speech disorders or impairments.[48]

48 NHS England, 'Guidance on the use of AI-enabled ambient scribing products in health and care settings.' 27 April 2025, updated 24 April 2026. https://www.england.nhs.uk/long-read/guidance-on-the-use-of-ai-enabled-ambient-scribing-products-in-health-and-care-settings/

Research shows that AI scribes generally make more mistakes than doctors, not only in terms of transcription or note errors, but also omissions or the inclusion of text that was never spoken or does not follow directly from the consultation notes.[49]

Some AI scribe providers suggest that their systems are capable of autonomously 'making choices' about what to include in transcriptions, and have the ability to identify and remove small talk and non-pertinent information, retaining only clinically relevant details. However, AI scribes may struggle with contextual understanding – for example, misinterpreting a patient's hypothetical statement as a confirmed diagnosis,[50] or confusing historical and current symptoms.[51] Clinicians are entirely responsible for reviewing and correcting their notes. The Royal Australian College of General Practitioners (RACGP) has noted that errors can affect the meaning and accuracy of clinical information, such as by filtering out pertinent information, 'mishearing' the names of symptoms, medicines or conditions as a result of a speaker's accent or use of slang terms, and incorrectly categorising data.[52] NHS England's Guidance on the use of ambient scribes notes that AI-enabled products have high potential for bias due to limitations in the data and processes used for training AI models. In particular, ambient scribing products may have varying success with some accents or regional dialects, where the participants speak

> **"And as I back-read through it, I found there were very few consultations where I didn't have to intercede and make changes to the recorded notes.**
>
> General Practitioner, 1:1 interview subject

English as a second language, or are affected by speech disorders or impairments.[53] NHS England's guidance therefore recommends confirming that the product works well for users and patients with different accents, and to monitor whether any patient groups hesitate to seek practices' services due to opposing the use of ambient scribing products.

Our research has found that there is a consistent lack of transparency on the underlying models used by AI scribe vendors in Australia – of the six Australian-based AI scribe vendors reviewed, none disclose the underlying model in publicly available information. One French based AI scribe vendor notes GPT3 and 4 in its documentation. Given research which shows that bias depends on the model, this lack of transparency is a concern.

49 See, for example: Thomas C. Draper et al., 'Clinical AI Scribes in Primary Care: Accuracy, Error Severity and Implications for Clinical Practice' BMJ Digital Health & AI 1, no.1 (2025): e000092. https://doi.org/10.1136/bmjdhai-2025-000092; Joshua Biro et al., 'Accuracy and Safety of AI-Enabled Scribe Technology: Instrument Validation Study' J Med Internet Res 27, (2025): e64993. https://doi.org/10.2196/64993; Erin Palm et al., 'Assessing the Quality of AI-Generated Clinical Notes: Validated Evaluation of a Large Language Model Ambient Scribe', Frontiers of Artificial Intelligence 8, (2025): 1691499 https://doi.org/10.3389/frai.2025.1691499 (all accessed 12 May 2026).

50 NHS England, 'Guidance on the use of AI-enabled ambient scribing products in health and care settings.' 27 April 2025, updated 24 April 2026. https://www.england.nhs.uk/long-read/guidance-on-the-use-of-ai-enabled-ambient-scribing-products-in-health-and-care-settings/.

51 Royal Australian College of General Practitioners, 'Artificial Intelligence (AI) scribes: Fact sheet.' Last updated 27 October 2025. https://www.racgp.org.au/running-a-practice/technology/artificial-intelligence-ai/artificial-intelligence-ai-scribes.

52 Royal Australian College of General Practitioners, 'Artificial Intelligence (AI) scribes: Fact sheet.' Last updated 27 October 2025. https://www.racgp.org.au/running-a-practice/technology/artificial-intelligence-ai/artificial-intelligence-ai-scribes.

53 NHS England, 'Guidance on the use of AI-enabled ambient scribing products in health and care settings.' 27 April 2025, updated 24 April 2026. https://www.england.nhs.uk/long-read/guidance-on-the-use-of-ai-enabled-ambient-scribing-products-in-health-and-care-settings/.

The TGA has confirmed to Digital Rights Watch in writing that, at this stage, it is not in the scope of their review to assess how any AI models in use have been trained and validated. This also raises the question: How can the public, GPs, or regulators have confidence that these tools aren't generating systemic biases because of a particular model that has that tendency? The only reason we know that this issue exists today is because of academic research undertaken on these models. Given the rapid and widespread uptake of AI scribes across Australia, the AI Safety Institute should be testing AI scribes' models for their biases.

International research on accuracy and bias and AI scribes

- In the UK, research found the foundation models that power the summarising feature in AI scribe tools can produce biased outputs that would be harmful in social care contexts.[54] For example, one study of an English local authority's gender-swapped long-term care records found that some models consistently downplayed women's health issues and needs compared to those of men.[55]
- A recent study funded by the UK's National Institute for Health and Care Research found that when social workers used Google's AI model 'Gemma', it downplayed women's physical and mental health issues compared to men's in its case note summaries.[3]
- Avant has compiled and published a list of common errors by AI scribes, gathered from attendees' stories at a recent webinar:[56]
  - 'I asked if there was chest pain. The answer was no but the AI scribe wrote yes.'
  - 'Mine is good at eliminating small talk but sometimes fails to pay attention to social history.'
  - 'Wrong side recorded by scribe for the breast cancer.'
  - '[M]issing the word 'not' as in has epilepsy vs does not have epilepsy [...] in a letter.'
- A Financial Times piece on AI scribes found that when AI-generated notes at Stanford Medical School were closely scrutinised by physicians for accuracy, roughly 90 per cent required manual editing to correct for inaccuracies.[57]
- A study published in the BMJ Digital Health & AI found that 'Omissions dominated error counts (83.8%, p<<0.001), with [AI scribes] varying widely in error frequency and severity'. There was 'a median of 1-6 omissions per consultation', depending on the AI scribe employed. And, 'although less frequent, hallucinations and factual inaccuracies were more often clinically serious'. **None of the AI scribes tested produced 'error-free summaries'**.[58]

54 Lara Groves and Oliver Bruff, *Scribe and Prejudice? Exploring the Use of AI Transcription Tools in Social Care* (Ada Lovelace Institute, 11 February 2026), p.54, accessed 12 May 2026. https://www.adalovelaceinstitute.org/wp-content/uploads/pdfs/33783/scribe-and-prejudice.pdf?v=1778241451

55 Sam Rickman, 'Evaluating Gender Bias in Large Language Models in Long-Term Care', *BMC Medical Informatics and Decision Making 25*, no. 274, (2025), accessed 21 August 2025. https://link.springer.com/article/10.1186/s12911-025-03118-0.

56 Georgie Haysom, 'AI scribes in practice: common errors to consider', *Avant*. https://avant.org.au/resources/ai-scribes-in-practice-common-errors-to-consider

57 Madhumita Murgia, 'Healthcare turns to AI for medical note-taking 'scribes'', *Financial Times*, 5 January 2025. https://www.ft.com/content/5c356658-6db4-47c1-940b-b2e3cf3a51f3?syn-25a6b1a6=1

58 Thomas C. Draper et al., 'Clinical AI Scribes in primary care: accuracy, error severity and implications for clinical practice', *BMJ Digital Health & AI*, (2025): 1:e000092. https://doi.org/10.1136/bmjdhai-2025-000092.

- One study of patient-nurse encounters in a New York City-based 'Home Healthcare' setting found that all four automatic speech recognition systems tested 'showed reduced accuracy' for Black patients compared to white patients, 'with significant discrepancies' in linguistic dimensions such as 'Affect', 'Social' and 'Drives'.[59]
- One study which identified AI scribe tools available to UK clinicians and evaluated the transparency of their regulatory, data-protection and NHS-readiness claims, found that of the 118 products studied, 'only nine (7%) explicitly claimed Class I medical device status' of which six could be definitively located on the MHRA register under the same name or clearly linked legal entity. Explicit GDPR or data protection statements were present for 88 products (73%), 'but supporting evidence (e.g., DPIAs, UK-specific safeguards) was rarely available'.[60]
- A study evaluating AI scribes' performance in primary healthcare settings in Canada and the US found that, 'While all AI scribes produced good to excellent quality medical notes, none were consistently error-free. Common errors included deletion, omission, and SOAP [Subjective, Objective, Assessment, and Plan] structure errors. Factors such as extraneous conversations and multiple speakers impacted the accuracy of both the transcript and medical note, with some AI scribes producing excellent notes despite minor transcript issues and vice versa.'[61]

Suggested interventions

- Systems must work across diverse accents, cultural contexts, and patients with low-English proficiency. They should be specifically tested and validated for use with the patient population a practice serves, including with respect to the diversity of training data used to develop the underlying models. The OAIC notes that an AI system trained on non-Australian datasets may not comply with APP10 accuracy obligations when applied to an Australian clinical setting.[62] Clinicians should always offer alternatives to AI scribes (e.g., manual notetaking, locally-stored audio recording).
- The Australian government should undertake pilots of AI scribe tools across healthcare, aged care, and other public sector contexts which assess accuracy and bias.

59 Maryam Zolnoori et al., 'Decoding disparities: evaluating automatic speech recognition system performance in transcribing Black and White patient verbal communication with nurses in home healthcare,' *JAIMA Open 7*, no.4 (2024): ooae130. https://doi.org/10.1093/jamiaopen/ooae130.

60 Claire Dady, 'Trust Me, I Might be a Medical Device: The Problem with AI Scribes', *Research Square*, (2026). https://doi.org/10.21203/rs.3.rs-8994700/v1.

61 Emily Ha et al., 'Evaluating the Usability, Technical Performance, and Accuracy of Artificial Intelligence Scribes for Primary Care: Competitive Analysis', *JMIR Human Factors Jul 23*, (2025): 12:e71434. https://doi.org/10.2196/71434.

62 Office of the Australian Information Commissioner, 'Guidance on privacy and the use of commercially available AI products', updated 17 January 2025. https://www.oaic.gov.au/privacy/privacy-guidance-for-organisations-and-government-agencies/guidance-on-privacy-and-the-use-of-commercially-available-ai-products

Suggested interventions

- There is a clear need for accessible avenues for patients to be able to raise concerns and challenge the use of these technologies, rather than relying on harm to surface after the fact. In the current policy climate, however, many individuals remain largely excluded from meaningful conversations about how their data is used, with limited visibility over decision-making and few practical mechanisms for redress. Gaps remain in cross-regulator cooperation, resourcing, and enforcement powers. Strengthening existing forums such as the Digital Platform Regulators Forum[63] could be beneficial. Similar developments have been seen internationally e.g., the UK's Digital Regulation Cooperation Forum.[64]
  - None of the Australian AI scribe vendors that we reviewed have disclosed what underlying frontier model they are using. Given the rapid and widespread uptake across Australia, the AI Safety Institute should be testing AI scribe models for their biases, with conclusions published.
  - A shared accountability framework should be implemented (i.e., while clinicians are responsible for the final clinical record, AI scribe vendors must be responsible for demonstrating system safety, accuracy and security prior to being allowed onto the Australian market via TGA regulation). Vendors should be required to provide transparency about AI models, accuracy metrics, and bias testing on (for example) different accents. Medical practices should be required to run regular audits of AI-generated notes to track error rates.

> **"If a GP is already reluctant to use an interpreter, I don't know if they'll take the time to obtain informed consent. It can be lengthy to make sure it's informed consent, not just someone nodding because they don't quite understand the question."**
>
> Coordinator, Projects & Training
> Centre for Culture, Equity & Health

63 https://dp-reg.gov.au
64 https://www.drcf.org.uk

Beyond transcription

Our research suggests that many AI scribe vendors are expanding their business model from pure transcription services to producing care plans and providing services that move them into regulated medical device territory, despite AI scribes not currently being listed on the ARTG. It is therefore recommended that the TGA move to urgently regulate these tools. The TGA has confirmed to Digital Rights Watch in writing that its initial requests for information from AI scribe providers have focused on understanding product functionality to determine whether those products meet the definition of a medical device under the Therapeutic Goods Act 1989 (Cth).

The TGA has also noted in a report that while developers of digital scribes claim these tools are not medical devices because their intended purpose is to summarise clinical practice notes, users have reported that scribes frequently propose diagnoses or treatment options for patients beyond the stated diagnosis or treatment a clinician has identified during consultations. This functionality 'indicates that digital scribes meet the definition of a medical device and require pre-market approval and inclusion in the ARTG and are potentially being supplied in breach of the Act'.[65]

We wrote to a number of companies with questions regarding their operations relating to data protection, bias and accuracy, as well as diagnostic capabilities. However, as of 25 May 2026 we have had only two responses: from Heidi Health (in writing) and Silknote (by phone call).

Examples where AI scribes appear to go beyond transcription

- **Heidi Health**[66] An October 2025 interview with the Australian Financial Review suggests that the maker of Heidi may soon be introducing functionality which seems very close to diagnostic: '"Currently we have a feature called Tasks that comes up with a list of things that a clinician needs to do after each session, and it is very clear that Heidi could start drafting some of those things for the doctor to use if they choose," Kelly said. "If we know a clinician usually prescribes Symbicort in a consultation about asthma and gives the patient an asthma guideline document, then Heidi can make sure that is only a click away."'[67]

- However, Heidi confirmed to us in a written response on 16 April 2026 that "Heidi is an AI documentation tool; providing diagnoses or management beyond the content of the transcript, context, or clinical document is against usage policy."[68] Heidi also has an 'Evidence' feature which allows clinicians to "refine questions over multiple turns with preserved context, adjust the depth of responses from concise summaries to detailed reviews, and... tailor answers using patient context such as age, medications, and conditions." [69]

65 See section 1.1.4 of the TGA's report: Therapeutic Goods Administration, *Clarifying and strengthening the regulation of Medical Device Software including Artificial Intelligence (AI): Outcomes from the review of therapeutic goods legislation, regulation and guidance* (Australian Government Department of Health, Disability and Ageing, July 2025). https://consultations.tga.gov.au/tga/clarifying-and-strengthening-the-regulation-of-ai/supporting_documents/tga-report-clarifying-and-strengthening-the-regulation-of-medical-device-software-including-artificial-intelligence-aipdf.

66 https://www.heidihealth.com/en-au/product/tasks accessed 1 June 2026.

67 Paul Smith, 'AI doctor assistant Heidi's value soars after $100m investment', Australia Financial review, 6 October 2025. https://www.afr.com/technology/ai-doctor-assistant-heidi-s-value-soars-after-100m-investment-20250926-p5my3q.

68 The full response dated 16 April 2026 from Heidi Health provided that "*Heidi is designed as an administrative documentation tool. All clinical decisions – including any diagnoses – are the sole responsibility of the treating clinician. The language on the Ask Heidi product page – that it "can assist by suggesting possible diagnoses based on the information provided" – describes the AI's ability to surface information from the consultation transcript and context notes to support a clinician's own thinking, in a manner similar to a search or reference tool. It does not mean Heidi autonomously generates independent diagnoses. The same page explicitly states: "Remember that Heidi is an AI documentation tool; providing diagnoses or management beyond the content of the transcript, context, or clinical document is against usage policy." Heidi has implemented technical guardrails designed to prevent the generation of clinical diagnoses or differential diagnostic outputs. In addition, our Usage Policy expressly prohibits users from attempting to prompt Heidi to generate such outputs. Any such use is a violation of our terms and may result in termination or suspension of access.*"

69 https://www.heidihealth.com/en-au/evidence accessed 22 June 2026.

- **Medow AI**[70] Medow makes claims on its website regarding medical discipline-specific capabilities that clearly go beyond scribing. For example, it claims its 'psychiatry-specific AI [can] capture nuanced patient presentations and complex risk assessments with precision. It recognises when patients discuss suicidal ideation, mood fluctuations, or treatment adherence to ensure critical information is never missed.' For neurology, it claims to '[r] ecord detailed neurological assessments, symptoms, and diagnostic test interpretations for comprehensive treatment plans'.
- **Lyrebird**[71] On its website, Lyrebird states it can generate Chronic Condition Management Plans, Mental Health Treatment Plans, Health Assessments, and Medical Certificates.

Suggested interventions

- The TGA should publish the findings and/or transparency information of its review on digital scribes, and add all AI scribe tools that are currently providing functionality that classifies them as 'medical devices' onto the ARTG. The TGA should actively regulate these tools and consider an approach more closely aligned to the UK's.
- A national certification framework should be implemented, whereby a body such as the Australian Digital Health Agency or AI Safety Institute would create a whitelist of approved tools, similar to the list of NHS England's approved suppliers.[72] Criteria could include privacy compliance, security standards, clinical safety testing and the transparency of AI models, no secondary use of personal data (including aggregate or de-identified data without consent of patients along with disclosure of accuracy testing. This could be accompanied by detailed guidance similar to NHS England's Guidance on the use of ambient scribes.[73]
- Create a shared accountability framework. While clinicians are responsible for the final clinical record, AI scribe vendors and companies must be responsible for demonstrating system safety, accuracy, and security prior to being allowed access to the Australian market via TGA regulation. Vendors should be required to provide transparency about AI models, including accuracy metrics and bias testing on different accents. Medical practices should be required to run regular audits of AI-generated notes to track error rates.

70 https://www.medowhealth.ai/specialties accessed 1 June 2026.

71 https://www.lyrebirdhealth.com/au/product/gps accessed 1 June 2026.

72 NHS England. "Ambient Voice Technology Self-Certified Supplier Registry." Last updated 17 April 2026 at 2:17 pm. https://digital.nhs.uk/services/ambient-scribing/ambient-voice-technology-self-certified-supplier-registry.

73 NHS England, 'Guidance on the use of AI-enabled ambient scribing products in health and care settings.' 27 April 2025, updated 24 April 2026. https://www.england.nhs.uk/long-read/guidance-on-the-use-of-ai-enabled-ambient-scribing-products-in-health-and-care-settings/.

Other potential impacts

AI scribes may introduce new functions unintentionally or through user-provided instructions, generating outputs that go beyond the product's intended purpose, even without deliberate intent by the user.[74] Another underlying risk related to AI scribes is that, as adoption increases, GPs may develop over-reliance on these tools, resulting in reduced attention to critical clinical details or failure to adequately review AI-generated outputs. The act of manually drafting clinical documentation may itself serve a cognitive function, supporting GPs in developing a clinical formulation; the consequences of displacing this process remain insufficiently understood.[75] Dr Caitlin Curtis, a researcher specialising in responsible AI at University of Queensland, notes in a report by The Guardian that 'when [patients] go back to see their GP, it feels to them like a GP did not emotionally connect with them... because the GP doesn't seem as familiar with what happened last time.'[76] Note taking 'helps us process information, reflect, prioritise, and really understand what's going on. If that process is automated or removed, it may save time – but it raises the question of what else might be lost.'[77]

The process of using an AI scribe currently has an inherent lack of feedback at its core. Very often patients do not receive a copy of their notes and there is no requirement for vendors to engage with clinicians and patients on the benefits and risks of using these tools which means there is no loop for improvement. A regulation-free space is often valorised as it assumes uninhibited innovation, but it can also work in the reverse without appropriate feedback and evaluation.

Finally, a significant underlying risk is the potential 'chilling effect' of patients no longer feeling able to freely express themselves. While further research is needed, patients may self-censor and choose not to disclose certain information when they are being recorded – whether about domestic violence, child protection, sexual health, stigmatised conditions, drug and alcohol consumption, or other sensitive issues. Experts have noted that healthcare is deeply human; consultations are more than mere transactions or information exchange and the introduction of AI into consultations changes not only what gets recorded, but what gets said.[78] Patients should not be penalised for refusing or switching off an AI scribe by presuming that an individual may be talking about stigmatised conditions or withholding certain information, including by insurance companies.

74 NHS England, 'Guidance on the use of AI-enabled ambient scribing products in health and care settings.' 27 April 2025, updated 24 April 2026. https://www.england.nhs.uk/long-read/guidance-on-the-use-of-ai-enabled-ambient-scribing-products-in-health-and-care-settings/.

75 Royal Australian College of General Practitioners, 'Artificial Intelligence (AI) scribes: Fact sheet.' Last updated 27 October 2025. https://www.racgp.org.au/running-a-practice/technology/artificial-intelligence-ai/artificial-intelligence-ai-scribes.

76 Josh Taylor, 'Two in five Australian GPs use AI scribes to record patient notes – but do they trade care for convenience?' *The Guardian*, 28 March 2026. https://www.theguardian.com/australia-news/2026/mar/29/doctors-using-ai-for-notes-australia.

77 Josh Taylor, 'Two in five Australian GPs use AI scribes to record patient notes – but do they trade care for convenience?' *The Guardian*, 28 March 2026. https://www.theguardian.com/australia-news/2026/mar/29/doctors-using-ai-for-notes-australia.

78 Elizabeth Deveny, 'AI scribes in general practice: support, silence and the shape of care,' *InSight+*, 21 July 2025, accessed 13 May 2026. https://insightplus.mja.com.au/2025/28/ai-scribes-in-general-practice-support-silence-and-the-shape-of-care.

Suggested interventions

- There should be a prohibition on inferences drawn from the absence of an AI scribe in the generation of clinical notes.
- Regulators and other policymakers must find ways to incorporate the voices and experiences of parties that exist outside of the contractual relationships that commonly govern this kind of technology. Here, patient experiences have been largely ignored, as the AI scribe providers prioritise the needs of healthcare providers. There is no opportunity for patients to be involved in the regulatory environment or policy development, other than post-fact harm complaints.
- The AI Safety Institute needs to be appropriately resourced to respond proactively to the needs of regulators managing frontier technologies.
- It is important to engage with Australians about their experiences, perspectives and concerns regarding the use of cutting-edge technologies, including AI scribes. This includes consultations with the general public (patients) as stakeholders who are excluded from the relevant commercial arrangements. One avenue that could be explored is a consultative body providing an appropriate forum for engagement. Some options could include the AI Safety Institute, CSIRO, or the establishment of a new body.
- A cross-sector coalition of researchers, policymakers, civil society organisations, and community groups should work together to investigate the systemic impacts of AI scribe tools in order to capture ongoing evidence.

> **“If the AI scribe makes an error it's going to be no defence for you if you end up being sued to say, not my fault, the AI did it. I'm sure that in the fine print, there's something to say, you know, it's my responsibility, not theirs.”**
>
> General Practitioner, 1:1 interview subject

CONCLUSION

AI scribes are rapidly becoming embedded in the Australian healthcare system, by claiming to ease administrative burdens and the workloads of GPs and medical practitioners across the country.

While these tools may offer benefits in terms of efficiency, the risks in respect of privacy, the potential for bias, and the impact on patient-doctor relationships must be appropriately considered and mitigated.

We must ask ourselves – do we trust these AI companies to handle the most sensitive personal data of Australians? What value do we place on our health information, our mental health information, our children's health information?

In the Media

Josh Taylor, 'Melbourne psychiatrist refuses new patients who don't consent to AI note-taking.' *The Guardian*, 18 May 2026. https://www.theguardian.com/australia-news/2026/may/19/melbourne-psychiatrist-ai-note-taking-new-patients.

Josh Taylor, 'Two in five Australian GPs use AI scribes to record patient notes – but do they trade care for convenience?' *The Guardian*, 28 March 2026. https://www.theguardian.com/australia-news/2026/mar/29/doctors-using-ai-for-notes-australia.

Amelia McGuire, 'AI scribe Heidi Health's 'crazy new platform' eclipses Canva', *Australian Financial Review*, 21 April 2026. https://www.afr.com/technology/ai-scribe-heidi-health-s-crazy-new-platform-eclipses-canva-20260417-p5zoli.

Carly King, 'Upend privacy laws for AI at the GP? This will not benefit patients', *Australian Financial Review*, 14 August 2025. https://www.afr.com/politics/federal/upend-privacy-laws-for-ai-at-the-gp-this-will-not-benefit-patients-20250813-p5mmht.

Andy Kollmorgen, 'AI is increasingly invading our medical privacy as regulation struggles to keep up', *Choice*, 21 October 2025. https://www.choice.com.au/data-protection-and-privacy/data-collection-and-use/how-your-data-is-used/articles/ai-used-by-medical-professionals.

Elizabeth Deveny, 'AI scribes in general practice: support, silence and the shape of care,' *InSight+*, 21 July 2025. https://insightplus.mja.com.au/2025/28/ai-scribes-in-general-practice-support-silence-and-the-shape-of-care.

ANNEX 1: DETAILED FINDINGS AND RECOMMENDATIONS

1

AI scribes (sometimes known as ambient AI or AI notetakers) are being taken up in primary healthcare settings at a rapid rate and in a regulatory environment that is inadequate relative to the serious nature of the use case. Bodies which have the authority to bring this technology under existing regulatory regimes, such as the Therapeutic Goods Association (TGA), are hesitant to do so, and the practical reality is that existing laws are not being complied with, nor are there consequences for non-compliance.

2

Media reports have highlighted instances of patients not being given the right to refuse the use of AI scribes, including in highly sensitive settings such as psychiatry.[79] Instead, their use is often presented as a bundled consent (i.e., agree or see another specialist). There is also no consensus among practitioners about the rights of patients to refuse consent.

3

Evidence locally and abroad demonstrates concerns about how AI scribes may be limiting access to care or influencing care in ways that are discriminatory. Evidence suggests that AI scribes can summarise consultations in ways that reflect existing biases.

4

There is a significant risk for a 'chilling effect' on patient–doctor communications, whereby patients may self-censor and choose not to disclose certain information when they are being recorded (e.g., domestic violence, child protection, sexual health, stigmatised conditions, drug and alcohol consumption, or other sensitive issues). Experts have noted that healthcare is deeply human – consultations are more than mere transactions or information exchange.[4] The introduction of AI into consultations changes not only what gets recorded, but what gets said.[5]

79 Josh Taylor, 'Melbourne psychiatrist refuses new patients who don't consent to AI note-taking.' *The Guardian*, 18 May 2026. https://www.theguardian.com/australia-news/2026/may/19/melbourne-psychiatrist-ai-note-taking-new-patients; Tom Williams, 'Kobi refused a doctor's AI. She was told to go elsewhere.' *Australian Computer Society*, 12 August 2025. https://ia.acs.org.au/article/2025/kobi-refused-a-doctors-ai-she-was-told-to-go-elsewhere.html

5a

Significant gaps have been identified in the data protection and privacy practices of AI scribe vendors. The ways these AI tools work are opaque to clinicians and patients. Our research has found that there is a consistent lack of transparency on the underlying models used by AI scribe vendors in Australia – of the six Australian-based AI scribe vendors reviewed, none disclose the underlying model in publicly available information. One French based AI scribe vendor notes GPT3 and 4 in its documentation. In addition, the AI scribe vendors put forward different statements on whether personal information is used to train the models, with many stating that they do use personal information including sensitive health information for training their AI, or de-identified or aggregate information. This creates significant risks related to Australians' privacy especially as appropriate consent is not being sought for this separate use of sensitive personal information. It is very difficult to find further information on their data protection practices. Of the seven AI scribe vendors we reached out to, whose tools appear to be used across Australia, only two acknowledged/responded to our questions regarding their handling of personal information (Silknote and Heidi Health).

5b

Significant gaps have been identified in the data protection and privacy practices of medical practices adopting AI scribes. Medical practices are generally not complying with obligations under Australia's Privacy Act 1988 (Cth) regarding consent for processing sensitive data, updating privacy policies, and providing notice upon collection. There are also legitimate concerns about the ability of patients to give genuine consent given the power imbalance between doctors and patients. Often consent is sought with a casual question like, 'Are you okay for me to use an AI scribe?', without providing patients with key information, such as which tool is being used, or how data is retained and used. In other instances, passive signage is being relied upon to suggest consent. However, these measures do not meet the requirements for consent under the Australian Privacy Principles (APPs) of the Privacy Act 1988 (Cth). When we reviewed the privacy policies of a number of Australian medical providers who are featured on the websites of these AI tools as customers, or otherwise identified as using AI scribes, we **found only 4 out of the 60 privacy policies, or 6.67%, explained the use of AI scribes.**

6

Where appropriate consent is not sought, there may also be a breach of the covert listening device laws. These vary by state and territory in Australia: certain states may require one party's consent, while others may require both parties'. Class actions have commenced in California in relation to similar surveillance laws being breached by doctors not obtaining appropriate consent.[80]

80 Steph Weber, 'Health System Sued Over AI Scribe Technology, Patient Consent.' *Medscape*, 16 January 2026. https://www.medscape.com/viewarticle/health-system-sued-over-ai-scribe-technology-patient-consent-2026a10001k7?form=fpf

7

Certain AI scribe tools claim to use 'de-identified' data to train AI models. (Unlike anonymised data, pseudonymised or de-identified data may still be re-identified when combined and reverse-engineered with external datasets. However, the research community is still debating what constitutes anonymous data from a technical perspective[81].) Heidi Health has confirmed it does not use consultation data to fine-tune underlying language models or for other secondary commercial purposes, regardless of whether data has been de-identified or pseudonymised. However, other vendors are less clear about AI training data practices in their privacy policies and data protection information. This raises significant concerns around re-identification risks, as well as risks relating to individuals' private health journeys.

8

Certain AI scribe vendors appear to be providing services that meet the definition of a 'medical device' under the Therapeutic Goods Act 1989 (Cth). While the TGA is currently undertaking a review of digital scribes in the Australian market, it is unclear what its outcomes will be and whether it will lead to enforcement.

9

There is emerging research that AI scribes can contribute to improved primary healthcare, with benefits for both GPs and patients. However, these benefits need to be considered in the context of operational concerns and the robustness of regulatory regimes. Further research is needed to understand whether the productivity gains being claimed are genuine, especially given that doctors remain ultimately responsible and liable for these tools' outputs, which they must spend time in verifying. It is also unclear how much oversight is needed to review the outputs of AI scribe tools as there is very little data available, as well as whether use of these tools can impact GP's memory of their patients' histories.

10

Significant concerns have been raised regarding accuracy and bias, particularly as 'hallucinations' by AI scribe tools can result in significant harm in a medical context. False symptoms or conditions entered into the patient record can lead to harmful clinical decisions (e.g., incorrect mental health flags). Moreover, AI scribing products may have varying success accurately transcribing some accents or regional dialects, the words of participants who speak English as a second language, or are affected by speech disorders or impairments.[82] Studies globally on this technology have demonstrated lower accuracy rates for minorities,[83] including certain AI models downplaying women's physical and mental health issues compared to men's in case note summaries.[84]

81 Andrea Gadotti et al, 'Anonymization: the imperfect science of using data while preserving privacy', *Science Advances* Vol. 10 No. 29, 17 July 2024. https://www.science.org/doi/10.1126/sciadv.adn7053.

82 NHS England, 'Guidance on the use of AI-enabled ambient scribing products in health and care settings.' 27 April 2025, updated 24 April 2026. https://www.england.nhs.uk/long-read/guidance-on-the-use-of-ai-enabled-ambient-scribing-products-in-health-and-care-settings/

83 See for example: Maryam Zolnoori et al., 'Decoding disparities: evaluating automatic speech recognition system performance in transcribing Black and White patient verbal communication with nurses in home healthcare,' *JAIMA Open 7*, no.4 (2024): ooae130. https://doi.org/10.1093/jamiaopen/ooae130.

84 Sam Rickman, 'Evaluating Gender Bias in Large Language Models in Long-Term Care' (2025) 25 BMC Medical Informatics and Decision Making 274 https://link.springer.com/article/10.1186/s12911-025-03118-0.

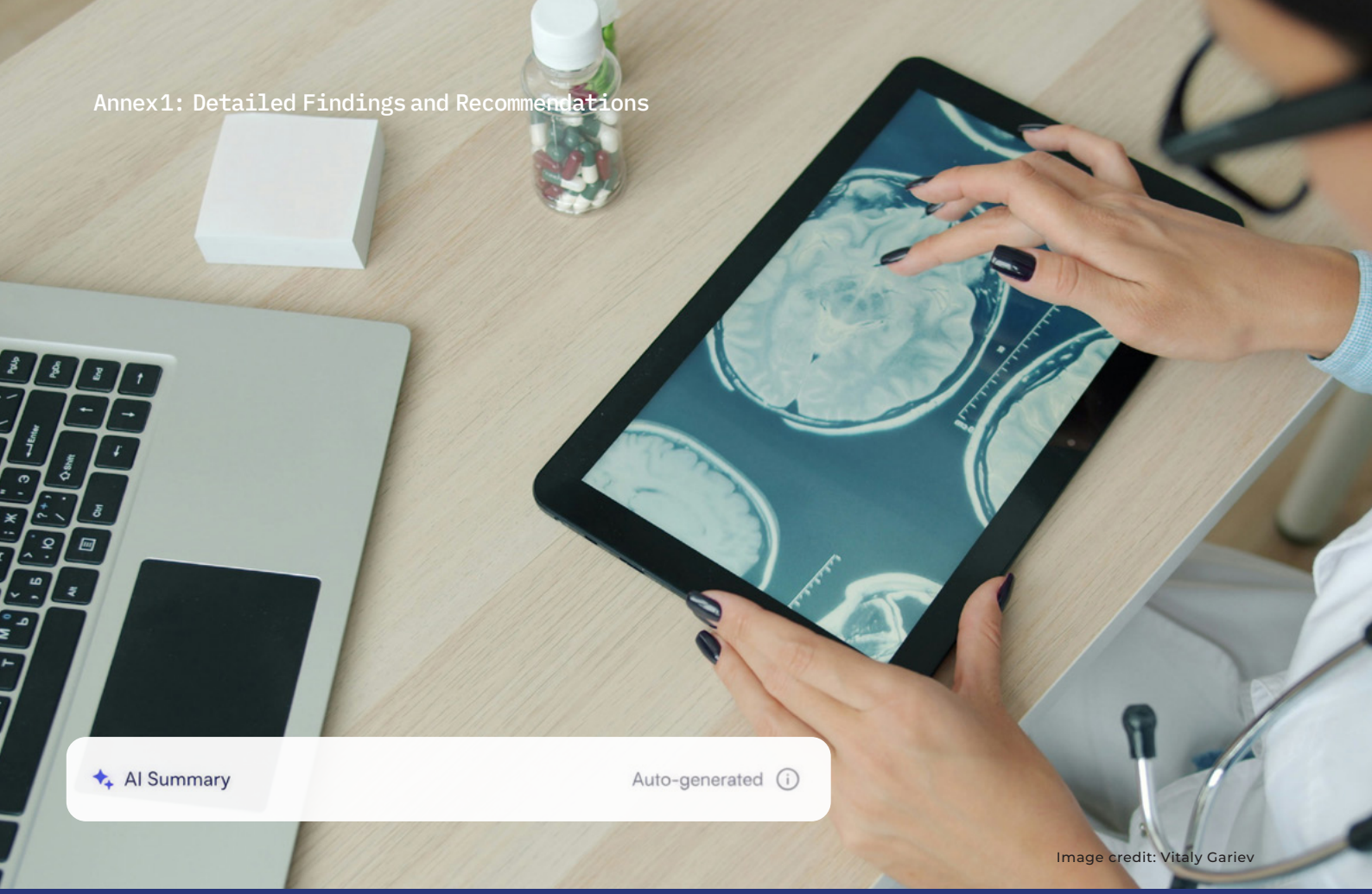


Image credit: Vitaly Gariev

11

None of the Australian AI scribe vendors that we reviewed have disclosed what underlying frontier model they are using. Given that research clearly shows different models behave with biases in different ways, this lack of transparency is a concern. The TGA has confirmed in writing to Digital Rights Watch that at this stage, assessing information beyond understanding product functionality to determine whether those products meet the definition of a medical device under the Therapeutic Goods Act 1989 (Cth), such as how any of the AI models in use have been trained and validated, does not fall under the scope of their review.

12

There is a clear need to create accessible avenues for patients to raise concerns and challenge the use of these technologies, rather than relying on harm to surface after the fact. In the current policy climate, however, many individuals remain largely excluded from meaningful conversations about how their data is used, with limited visibility over decision-making and few practical mechanisms for redress. Gaps remain in cross-regulator cooperation, resourcing, and enforcement powers.

> **When I would write my notes, I would very intentionally not include some things in my notes sometimes, and that was for the benefit of the patient... I worry about the interplay between everything being scribed and application of clinician judgment about how the notes are written up."**
>
> Research participant

Image credit: CDC from Unsplash

RECOMMENDATIONS / INTERVENTIONS

For Regulators

The Therapeutic Goods Administration (TGA)

1 The TGA should align its regulatory approach with those within the UK, whereby AI scribes are treated as medical devices even if they are summarising or transcribing. If this is unlikely, the TGA should, at a minimum, publish the findings of its digital scribes review, start adding those tools that meet the definition of a regulated 'medical device' into the Australian Register of Therapeutic Goods (ARTG), and enforce against AI scribe tools that are in breach of the Therapeutic Goods Act 1989 (Cth).

2 AI scribe vendors must be responsible for publicly demonstrating system safety, accuracy, and security prior to being allowed on the Australian market (through TGA approval).

The Office of the Australian Information Commissioner (OAIC)

3 The OAIC should issue guidance on the use of AI scribes in high-risk settings such as healthcare, potentially extending to aged care and social services. Guidance should expressly confirm how specific consent needs to be recorded at the outset, and individuals' right to withdraw and refuse consent. In addition, the guidance should include minimum vendor due diligence obligations, and clarify that the secondary use of patient data should not be allowed without specific, explicit, and separate consent. Moreover, it should stipulate that simply stripping out a name does not qualify as de-identification or true anonymisation.

4 The OAIC should undertake a regulatory sandbox with Australia's largest AI scribe companies that are used in healthcare settings, and consider investigating their practices.

5 The OAIC should enforce against medical practices and vendors that are in breach of the APPs. For example, practices that have not updated their privacy policies, are not obtaining lawful consent, or are undertaking any automated decision-making without the required transparency.

All relevant existing regulators

6 Regulators need to be encouraged, coordinated, and resourced to proactively regulate new technologies like AI scribes through guidance or other forms of regulation, rather than waiting for complaints or direction from government. There should be clear regulations regarding the right for individuals to refuse use of an AI scribe, particularly in medical settings and a prohibition on inferences drawn from the absence of an AI scribe in the generation of clinical notes.

7 Strengthening existing forums – such as the Digital Platform Regulators Forum[85] could be beneficial for addressing compliance gaps. Similar developments have been seen internationally (e.g., the UK's Digital Regulation Cooperation Forum.[86])

85 https://dp-reg.gov.au

86 https://www.drcf.org.uk

For Government

The AI Safety Institute (AISI)

8 Given AI scribes' sharp uptake across Australia, the AISI should be testing models for their biases with conclusions published. The AISI needs to be appropriately resourced to respond proactively to the needs of regulators managing frontier technologies. Systems must work across diverse accents, cultural contexts, and low-English proficiency patients. They should be specifically tested and validated for use with the patient population a practice serves, including with respect to the diversity of training data used to develop the underlying models.

9 A national certification framework should be implemented, with a body such as the AISI or Australian Digital Health Agency creating a whitelist of approved tools, similar to NHS England's approved suppliers.[87] Criteria could include privacy compliance, security standards, no secondary use of personal data (including aggregate or de-identified data without consent of patients), clinical safety testing and the transparency of AI models along with accuracy testing disclosures. This could be accompanied by detailed guidance akin to NHS England's Guidance on the use of ambient scribes.[88]

10 Government should invest in funding further research on testing productivity claims with AI scribes or undertaking pilots of AI scribe tools which assess productivity benefits across healthcare, aged care, and other public sector contexts.

Attorney-General

11 Privacy laws, which shape the trajectory of AI technologies, need to be updated as part of Tranche 2 reform as a matter of priority. This should include existing proposed changes such as:

- the right of erasure;
- the right to withdraw consent at any time without detriment or loss of access to service, and the threshold for valid consent;
- mandating that privacy impact assessments must be undertaken prior to the introduction of new tools, including AI scribes, that process sensitive personal information.

87 NHS England. "Ambient Voice Technology Self-Certified Supplier Registry." Last updated 17 April 2026 at 2:17 pm. https://digital.nhs.uk/services/ambient-scribing/ambient-voice-technology-self-certified-supplier-registry

88 NHS England, 'Guidance on the use of AI-enabled ambient scribing products in health and care settings.' 27 April 2025, updated 24 April 2026. https://www.england.nhs.uk/long-read/guidance-on-the-use-of-ai-enabled-ambient-scribing-products-in-health-and-care-settings/

For civil society and public engagement:

12 It is important to engage with Australians about their experiences, perspectives and concerns regarding the use of cutting-edge technologies, including AI scribes. This includes stakeholder consultations with patients who are excluded from the relevant commercial arrangements. One avenue that could be explored is a consultative body which provides an appropriate forum for engagement. Options could include the AI Safety Institute, the Commonwealth Scientific and Industrial Research Organisation (CSIRO), or a newly-established body. Policymakers must find ways to incorporate the voices and experiences of parties outside of the contractual relationship that commonly governs this kind of technology. So far, patient experiences have been largely ignored, as AI scribe providers prioritise the needs of healthcare providers. There is currently no opportunity for patients to be involved in the regulatory environment or policy development, other than post-fact harm complaints.

13 A cross-sector coalition of researchers, policymakers, civil society organisations, and community groups should work together to investigate the systemic impacts of AI scribe tools. Capturing ongoing, cross-sectoral evidence will be essential to understanding these impacts.[89]

Other

14 A shared accountability framework must be developed. While clinicians are responsible for the final clinical record, AI scribe vendors must be responsible for demonstrating system safety, accuracy, and security prior to being allowed on the Australian market (as mentioned in the TGA Recommendations above). Vendors should be required to provide information such as transparency on AI models, accuracy metrics, and bias testing on different accents. Medical practices should be required to run regular audits of AI-generated notes to track error rates.

89 Lara Groves and Oliver Bruff, Scribe and Prejudice? Exploring the Use of AI Transcription Tools in Social Care (Ada Lovelace Institute, 11 February 2026), p.10, accessed 12 May 2026. https://www.adalovelaceinstitute.org/wp-content/uploads/pdfs/33783/scribe-and-prejudice.pdf?v=1778241451

Digital Rights Watch presents this report with thanks to:

Our research partners:

- AWO
- Essential

Our research collaborators:

- Centre for Culture, Equity and Health
- Endometriosis Australia
- Multicultural Youth Advocacy Network Australia
- Patients Australia
- People with Disability Australia
- RANZCOG
- Victorian Refugee Health Network
- Women's health Victoria
- The GPs who attended one-on-one interviews

This report could not have been produced without generous support from the Minderoo Foundation

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