

Practice Privacy Policy

Policy

Australian Privacy Principle 1 requires our practice to have a document that clearly sets out its policies on handling personal information, including health information.

This document, commonly called a privacy policy, outlines how we handle personal information collected (including health information) and how we protect the security of this information. It must be made available to anyone who asks for it and patients are made aware of this.

Patient consent to the handling and sharing of patient health information should be provided at an early stage in the process of clinical care and patients should be made aware of the collection statement when giving consent to share health information.

In general, quality improvement or clinical audit activities for the purpose of seeking to improve the delivery of a particular treatment or service would be considered a directly related secondary purpose for information use or disclosure so we do not need to seek specific consent for this use of patients' health information, however we include information about quality improvement activities and clinical audits in the practice policy on managing health information. (Refer Section 8 Accreditation and Continuous Improvement)

Procedure

We inform our patients about our practice's policies regarding the collection and management of their personal health information via:

- A sign at reception ,
- Brochure/s in the waiting area
- Our patient information sheet
- New patient forms- "Consent to share information "
- Verbally if appropriate
- The practice website.

Any information shared for Quality Improvement is de-identified.

Privacy Policy / Patient Consent Form should include the practice contact details

- what information is collected
- why information is collected
- how the practice maintains the security of information held at the practice
- the range of people within the practice team (eg. GPs, general practice nurses, general practice registrars and students and allied health professionals), who may have access to patient health records and the scope of that access
- the procedures for patients to gain access to their own health information on request

- the way the practice gains patient consent before disclosing their personal health information to third parties
- the process of providing health information to another medical practice should patients request that
- the use of patient health information for quality assurance, research and professional development
- the procedures for informing new patients about privacy arrangements
- the way the practice addresses complaints about privacy related matters
- the practice policy for retaining patient health records.

A 'collection statement' sets out the following information:

- the identity of the practice and how to contact it
- the fact that patients can access their own health information
- the purpose for which the information is collected
- other organisations to which the practice usually discloses patient health information
- any law that requires the particular information to be collected (eg notifiable diseases)
- the main consequence for the individual if important health information is not provided.

Prior to a patient signing consent to the release of their health information, patients are made aware they can request a full copy of our privacy policy and collection statement.

Patient consent for the transfer of health information to other providers or agencies is obtained on the first visit.

Once signed this form is scanned into the patient's record and its completion noted.

Note: Consent for transfer of information differs from procedural consent.

3rd Party Requests for Access to Medical Records/Health Information

Policy

Requests for 3rd Party access to the medical record should be initiated by either receipt of correspondence from a solicitor or government agency or by the patient completing a Patient Request for Personal Health Information Form. Where a patient request form or and signed authorisation is not obtained the practice is not legally obliged to release.

Where requests for access are refused the patient or third party may seek access under relevant privacy laws.

An organisation 'holds' health information if it is in their possession or control. If you have received reports or other health information from another organisation such as a medical specialist, you are required to provide access in the same manner as for the records you create. If the specialist has written 'not to be disclosed to a third party' or 'confidential' on their report, this has no legal effect in relation to requests for access under the Health Records Act. You are also required to provide access to records which have been transferred to you from another health service provider.

Requests for access to the medical record and associated financial details may be received from various 3rd Parties including:

1. Subpoena/court order/coroner/search warrant
2. Relatives/Friends/carers
3. External doctors & Health Care Institutions
4. Police /Solicitors
5. Health Insurance companies/Workers Compensation/Social Welfare agencies
6. Employers
7. Government Agencies
8. Accounts/Debt Collection
9. Students (Medical& Nursing)
10. Research /Quality Assurance Programs
11. Media
12. International
13. Disease registers
14. Telephone Calls

Requests from patients for access to their own medical records under the Privacy Legislation is discussed in 6.3

We only transfer or release patient information to a third party once the consent to share information has been signed and in specific cases informed patient consent has may be sought. Where possible de identified information is sent

Our practice team can describe the procedures for timely, authorised and secure transfer of patient health information in relation to valid requests.

Procedure

The practice team can describe how we correctly identify our patients using 3 patient identifiers, name, date of birth, address or gender to ascertain we have the correct patient record before entering, actioning or releasing anything from that record.

Patient consent for the transfer of health information to other providers or agencies is obtained on the first visit and retained on file in anticipation of when this may be required.

As a rule no patient information is to be released to a 3rd Party unless the request is made in writing and provides evidence of a signed authority to release the requested information, to either the patient directly or a third party. Where possible de identified data is released.

Written requests should be noted in the patient's medical record and also documented in the practice's Request Register. Requests should be forwarded to the designated person within the practice for follow-up.

Requested records are to be reviewed by the treating medical practitioner or principal doctor prior to their release to a third party. Where a report or medical record is documented for release to a third party, having satisfied criteria for release, (including the patients written consent and where appropriate written authorisation from the treating doctor), then the practice may specify a charge to be incurred by the patient or third party, to meet the cost of time spent preparing the report or photocopying the record.

The practice retains a record of all requests for access to medical information including transfers to other medical practitioners.

Where hard copy medical records are sent to patients or 3rd Parties copies are forwarded not original documentation wherever possible. If originals are required copies are made in case of loss.

Security of any health information requested is maintained when transferring requested records and electronic data transmission of patient health information from our practice is in a secure format.

Subpoena, Court Order, Coroner Search Warrant

Note the date of court case and date request received in the medical record. Depending on whether a physical or electronic copy of the record is required follow procedures as described above. Refer also to section 8 "Management of potential Medical defence claims"

On occasions a member of staff is required to accompany the medical record to court or alternatively a secure courier service may be adequate. If the original is to be transported,

ensure a copy is made in case of loss of the original during transport. Ensure that the record is returned after review by the court.

Relatives/Friends

A patient may authorise another person to be given access if they have the legal right and a signed authority. See 6.3 Patient Requests for Personal Health Information. See also APP6 Use & Disclosure.

In 2008 the Australian Law Reform Commission recognised that disclosure of information to 'a person responsible for an individual' can occur within current privacy law. If a situation arises where a carer is seeking access to a patient's health information, practices are encouraged to contact their medical defence organisation for advice before such access is granted.

Individual records are advised for all family members but especially for children whose parents have separated where care must be taken that sensitive demographic information relating to either partner is not recorded on the demographic sheet. Significant court orders relating to custody and guardianship should be recorded as an alert on the children's records.

External Doctors & Health Care Institutions

Direct the query to the patient's doctor and or the practice manager/principal doctor

Police/ Solicitors

Police and solicitors must obtain a case specific signed patient consent (or subpoena, court order or search warrant) for release of information. The request is directed to the doctor.

Health Insurance Companies /Workers Compensation/ Social Welfare Agencies

Depending on the specific circumstances information may be need to be provided. It is recommended that these requests are referred to the Doctor.

It is important that organisations tell individuals what could be done with their personal health information and if it is within the reasonable expectation of the patient then personal health information may be disclosed. Doctors may need to discuss such requests with the patient and perhaps their medical defence organization

Employers

If the patient has signed consent to release information for a pre-employment questionnaire or similar report then direct the request to the treating doctor.

Government Agencies, Medicare/Dept. Veterans Affairs

Depending on the specific circumstances information may be need to be provided. It is recommended that doctors discuss such issues with the medical defence organisations.

State Registrar of Births, Deaths & Marriages

Death certificates are usually issued by the treating doctor.

Centrelink

There are a large number of Centrelink forms (treating doctor's reports) which are usually completed in conjunction with the patient consultation

Accounts/ Debt Collection

The practice must maintain privacy of patient's financial accounts. Accounts are not stored or left visible in areas where members of the public have unrestricted access.

Accounts must not contain any clinical information. Invoices and statements should be reviewed prior to forwarding to third parties such as insurance companies or debt collection agencies.

Outstanding account queries or disputes should be directed to the practice manager/bookkeeper or principal.

Students (Medical & Nursing)

This practice participates in medical student education.

The practice acknowledges that some patients may not wish to have their personal health information accessed for educational purposes. The practice always advises patients of impending student involvement in practice activities and seeks to obtain patient consent accordingly. The practice respects the patient's right to privacy.

Researchers/Quality Assurance Programs

Where the practice seeks to participate in human research activities and/or continuous quality improvement (CQI) activities, patient anonymity will be protected. The practice will also seek and retain a copy of patient consent to any specific data collection for research purposes.

Research requests are to be approved by the Practice Principal/ practice partners and must have approval from a Human Research Ethics Committee (HREC) constituted under the NH&MRC guidelines. A copy of this approval will be retained by the practice.

Practice accreditation is a recognised peer review process and the reviewing of medical records for accreditation purposes has been deemed as a "secondary purpose" by the Office of the Federal Privacy Commissioner. As a consequence patients are not required to provide consent.

Patients should be advised of the ways in which their health information may be used (including for accreditation purposes) via a sign in the waiting room and the practice information brochure.

Media

Please direct all enquiries to Practice Manager/ Principal. Staff must not release any information unless it has been authorised by the Practice Manager/ Principal and patient consent has been obtained.

International

Where patient consent is provided then information may be sent overseas however the practice is under no obligation to supply any patient information upon receipt of an international subpoena. **APP8 Cross border disclosure of personal information**

Disease Registers

This practice submits patient data to various disease specific registers (cervical, breast bowel screening etc) to assist with preventative health management. Consent is required from the patient with the option of opting in or opting out. Patients are advised of this via a sign in the waiting area and in the practice's information leaflet.

Telephone Calls

Requests for patient information are to be treated with care and no information is to be given out without adherence to the following procedure:

Take the telephone number, name (and address) of the person calling and forward this onto the treating doctor/principal or Practice Manager where appropriate,

Request for Access to Personal Health Information

Policy

Patients at this practice have the right to access their personal health information (medical record) under legislation - *Commonwealth Privacy Amendment (Private Sector) Act 2000* and *Health Records and Information Privacy Act 2002* (NSW). The HRIP Act gives individuals a right of access to their personal health information held by any organisation in the private sector in NSW in accordance with Health Privacy Principle 6 (HPP 6). This principle obliges health service providers and other organisations that hold health information about a person to give them access to their health information on request, subject to certain exceptions and the payment of fees (if any).

Public sector organisations continue to be subject to the Freedom of Information Act 1982.

This practice complies with both laws and the Australian and Health Privacy Principles (APPs & HPPs) adopted therein. See summary headings of Principles in this section. Both Acts give individuals the right to know what information a private sector organisation holds about them, the right to access this information and to also make corrections if they consider data is incorrect. Compliance with the access provisions in the *Health Records and Information Privacy Act 2002* will generally ensure compliance with the Commonwealth Privacy Act.

Australian Privacy Principles

- APP 1 — Open and transparent management of personal information**
- APP 2 — Anonymity and pseudonymity**
- APP 3 — Collection of solicited personal information**
- APP 4 — Dealing with unsolicited personal information**
- APP 5 — Notification of the collection of personal information**
- APP 6 — Use or disclosure of personal information**
- APP 7 — Direct marketing**
- APP 8 — Cross-border disclosure of personal information**
- APP 9 — Adoption, use or disclosure of government related identifiers**
- APP 10 — Quality of personal information**
- APP 11 — Security of personal information**
- APP 12 — Access to personal information**
- APP 13 — Correction of personal information**

As adopted within Commonwealth Privacy Amendment (Private Sector) Act 2000

We have a privacy policy in place that sets out how to manage health information and the steps an individual must take to obtain access to their health information. This includes the different forms of access and the applicable time frames and fees.

Reports by Specialists

This information forms part of the patient's medical record, hence access is permitted under privacy law.

Diagnostic Results

This information forms part of the patient's medical record, hence access is permitted under privacy law.

Note: Amendments to the Privacy Act apply to information collected after 21st December 2001, however they also apply to data collected prior to this date provided it is still in use and readily accessible.

We respect an individual's privacy and allow access to information via personal viewing in a secure private area. The patient may take notes of the content of their record or may be given a photocopy of the requested information. A GP may explain the contents of the record to the patient if required. An administrative charge may be applied, at the GPs discretion and in consultation with the Privacy Officer, e.g. for photocopying record, X-rays and for staff time involved in processing request.

Procedure

Release of information is an issue between the patient and the doctor. Information will only be released according to privacy laws and at doctor's discretion. Requested records are reviewed by the medical practitioner prior to their release and written authorization is obtained.

Request Received

When our patients request access to their medical record and related personal information held at this practice, we document each request and endeavour to assist patients in granting access where possible and according to the privacy legislation. Exemptions to access will be noted and each patient or legally nominated representative will have their identification checked prior to access being granted.

A patient may make a request verbally at the practice – a consent form must be signed. No reason is required to be given. The request is referred to the patient's doctor or delegated Privacy Officer and an appointment made.

A Request for Personal Health Information form is completed to ensure correct processing.

Once completed the request form is scanned in the patient record.

Request by another (not patient)

An individual may authorise another person to be given access, if they have the right e.g. legal guardian, and if they have a signed authority. Under APP6 Use & Disclosure, a 'person responsible' for the patient (including a partner, family member, care, guardian or close friend), if that patient is incapable of giving or communicating consent, may apply for and be given access for appropriate care and treatment or for compassionate reasons. Identity validation applies.

The Privacy Act defines a 'person responsible' as a parent of the individual, a child or sibling of the individual, who is at least 18 years old, a spouse or de facto spouse, a relative (at least 18 years old) and a member of the household, a guardian or a person exercising an enduring power of attorney granted by the individual that can be exercised for that person's health, a person who has an intimate relationship with the individual or a person nominated by the individual in case of emergency

Children

Where a young person is capable of making their own decisions regarding their privacy, they should be allowed to do so according to Federal Privacy Commissioner's Privacy Guidelines. The doctor could discuss the child's record with their parent. Each case is dealt with subject to the individual's circumstances. A parent will not necessarily have the right to their child's information.

Deceased Persons

A request for access may be allowed for a deceased patient's legal representative if the patient has been deceased for 30 years or less and all other privacy law requirements have been met. Ref: Sec 28 Health Records Act. No mention is made of deceased patient's access in Commonwealth privacy legislation.

Acknowledge Request

Each request is acknowledged with a letter sent to the patient, confirming request has been received. Send the letter within 14 days or sooner as recommended by the Australian Information Commissioner. Acknowledgment will include a statement concerning charges involved in processing the request.

Fees Charged

Discuss with the individual what information they want access to, and the likely fees, before undertaking their request for access.

The fees which an organisation can charge for providing access must not be excessive and must not apply to the mere lodgement of a request for access. Australian Privacy Principle 12 aims to prevent organisations from using excessive charges to discourage individuals from making requests for access to their medical records.

If an organisation incurs substantial costs in meeting a request for access, then the organisation could charge a reasonable fee to meet the administrative costs involved. For example, an organisation could recover some of the costs of photocopying or of the staff time involved.

Collate & Assess Information

Retrieve patient's medical record or arrange for the treating doctor or practice principal to access the computer record. Refer to the patient request form to help identify what information is to be given to the patient.

Data may be withheld under privacy legislation APP12 Access to Personal Information for the following reasons.

- Where access would pose a serious threat to the life or health of any individual
- Where access would pose a serious threat to public health or public safety
- Where the privacy of others may be affected
- If a request is frivolous or vexatious
- If information relates to existing or anticipated legal proceedings
- If access would prejudice negotiations with the individual
- If access would be unlawful
- Where denying access is required or authorised by law

See Australian Privacy Principles in full for comprehensive list of exclusions.

Access Denied

Reasons for denied access must be given to the patient in writing. Note these on request form. In some cases refusal of access may be in part or full.

Use of Intermediary When Access Denied

If request for access is denied an intermediary may operate as facilitator to provide sufficient access to meet the needs of both the patient and the doctor.

Provide Access

Personal health information may be accessed in the following ways:

- View and inspect information
- View, inspect and talk through contents with the doctor
- Take notes
- Obtain a copy (can be photocopy or electronic printout from computer)
- Listen to audio tape or view video
- Information may be faxed to patient
- Check Identity of Patient
- Ensure a visible form of ID is presented by the person seeking access. E.g. driver's licence, passport, other photo identification. Note details on request form.

- Does the person have the authority to gain access? Check age, legal guardian documents; is person authorised representative?

If the patient is viewing the data, supervise each viewing so that patient is not disturbed and no data goes missing.

If a copy is to be given to the patient ensure all pages are checked and this is noted in the request form.

If the doctor is to explain the contents to a patient then ensure an appointment time is made.

Requests to Correct Information

A patient may ask to have their personal health information amended if he/she considers that is not up to date, accurate and complete. APP13

Our practice must try to correct this information. Corrections are attached to the original health record.

Under APP13, an onus is on the practice to ensure that the information it holds is accurate, up-to-date, complete, relevant and not misleading

Where there is a disagreement about whether the information is indeed correct, our practice attaches a statement to the original record outlining the patients' claims. Where the practice refuses to update/correct the record, a written notice must be sent to the patient outlining the reasons for refusal, avenues of appeal/complaint.

Time Frames

Acknowledge request - within 14 days. Complete the request - within 30 days

Privacy Officer

Policy

This practice has a designated Privacy Officer, Lynne Lambell RN, who implements and monitors adherence to all privacy legislation in this practice. The patient's GP is required to authorise requests.

The Privacy Officer acts as liaison for all privacy issues and patient requests for access to their personal health information.

If staff members have any queries concerning privacy law i.e. *Commonwealth Privacy Act - Privacy Amendment (Private Sector) Act 2000* or *Health Records and Information Privacy Act 2002* (NSW) then refer to the Privacy Officer/ Practice Manager.

The privacy officer is responsible for ensuring compliance with relevant Privacy principles and legislation and for developing and maintaining our written protocols. The privacy officer liaises with the person responsible for Computer security and systems.

Privacy Audit

Policy

From time to time or in the event of any issues or complaints relating to privacy matters, this practice conducts a review of privacy policies and procedures.

Procedure

The Privacy Officer reviews the following items:

- what is the primary purpose of this practice?
- what data do we collect and document? APP1/HPP1
- how do we store this information? APP1
- what data do we disclose and to whom? APP6
- when and how do we obtain patient's consent? APP6/HPP2

Information is collected from electronic storage devices and issues discussed with GPs and staff to gain the most current information.

National and state privacy laws are referenced with any updates being noted and acted upon.

Policy Manual, Patient Access Forms/Register, Brochures and Poster

Forms related to 'Patient Access to Health Information,' including request for access and access register forms can also be reviewed at this time.

Detailed patient privacy brochures, stating our practice privacy policy in general as per privacy legislation is reviewed and updated as necessary. Obtain additional copies (in English or other languages) or re-print as needed.

A general patient privacy wall poster, advising patients of our privacy policy is reviewed and updated as necessary.