

# Privacy and Confidentiality



Miracle Health Services  
Delivering Quality Services

## Statement

Miracle Health Services (MHS) is committed to protecting all personal information and ensuring that the handling of Personal Information provided by job seekers, staff, clients, volunteers and others with whom we deal complies with Australian Privacy laws. This includes Australian Privacy Principles (**APPs**) outlined in the Privacy Act 1988 (Commonwealth) (**Privacy Act**) and any applicable state or territory legislation.

This policy outlines how we collect, use, disclose, store and manage personal information in accordance with these Australian Privacy Laws.

## Legislation

MHS will manage all personal information in accordance with Australian Privacy laws including (but not limited to):

- Privacy Act 1988 (Cth), and the Australian Privacy Principles (APPs)
- Freedom of Information Act 1982
- Spam Act 2003
- Privacy and Data Protection Act 2014 (Vic)
- Privacy and Personal Information Protection Act 1998 (NSW)
- Health Records and Information Privacy Act 2002 (NSW)
- Health Records Act 2001 (Vic), including the Health Privacy Principles
- Charter of Human Rights and Responsibilities Act 2006 (Vic)
- Information Privacy Act 2000 (Vic)

## Definitions

### **Personal Information**

Information or an opinion about an identified individual, or an individual who is reasonably identifiable, whether the information or opinion is true or not and whether the information or opinion is recorded in material form or not.

### **Health Information**


- Information or an opinion about:
  - The health or a disability at any time of an individual;
  - An individual's expressed wishes about the future provision of health services to him/her;
  - A health service provided or to be provided to an individual that is also Personal Information;
- Other Personal Information collected to provide, or in providing a health service;
- Other Personal Information about an individual collected in connection with the donation, or intended donation by the individual of his/her body parts, organs or body substances;
- Genetic information about an individual in a form that is or could be predictive of the health of the individual or a genetic relative of the individual.

**Sensitive information** - a subset of personal information and refers to information or an opinion about an individual's:

- racial or ethnic origin;
- political opinions or membership of a political association;
- membership of a professional or trade association or a trade union;
- religious beliefs or affiliations,
- philosophical beliefs,
- sexual preferences or practices,
- criminal record.

### **Unsolicited Information**

Unsolicited Information is all Personal Information received from an individual that MHS does not actively seek to collect.

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## **Employee Record**

An Employee Record is a record of Personal Information relating to the employment of a member of staff. Examples of Personal Information relating to the employment of the staff member may include:

- The engagement, training, disciplining or resignation of the employee;
- The terms and conditions of employment of the staff member;
- The employee's personal and emergency contact details;
- The employee's performance or conduct;
- The employee's criminal record status as obtained through a National police check or Working with Children Check;

### **1. Collection of personal Information**

MHS will only collect personal information that is necessary to deliver our services and conduct the business activities that support this and where the collection of the personal information is necessary to: .

- Comply with the provisions of State or Commonwealth laws
- Provide data to Government agencies as required by State or Commonwealth law
- Provide appropriate services and care to our clients
- Respond to requests for services from potential clients or their representatives
- Enable contact with a nominated person regarding an individual's health status
- Lawfully liaise with a nominated representative and to contact family/representatives as requested or needed
- Engage with current or prospective staff, contractors or consultants

All employees have been screened and have signed a confidentiality agreement, which ensures Personal Information to which they may become exposed to through the course of their employment, remains confidential.

The type of information that we collect includes, but is not limited to:

- Your name, address and contact details (e.g. Phone and email);
- Payment details (e.g. Credit Card or bank account details);
- Your current medical history, past history and relevant Health Information including Treating Practitioners' name and contact details;
- Advance Care Directive

We will only collect sensitive Information (including health information) where the information is reasonably necessary for or directly related to one or more of MHS's functions and:

- The individual has consented to the collection of this information
- The collection of the information is authorised under an Australian law or a court/tribunal order
- A permitted health situation exists in relation to the collection of the information
- The collection of information is a requirement for staff employment and/or business activities.


Some individuals may not want to provide information to MHS. If the individual chooses not to provide some or all of the information requested, MHS may as a result be unable to provide them with the care and services they require.

MHS collects information through a variety of ways including:

- Electronic or face to face interactions;
- Through our website;
- Requests for information;
- From third party referral services; and
- Through provision of services.

### **2. Use and Disclosure of Information**

Generally, we will only use and disclose Personal Information for purposes consistent with the reason this information was collected or for a directly related purpose, unless we have the individual's express or implied consent to use or disclose it for a different purpose.

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MHS may disclose personal information without your consent if required or authorised to do so by law.

## 2.1 Communication and marketing

We may use personal information to communicate with individuals through emails, newsletters or direct marketing, in accordance with Privacy legislation and the Privacy Act, unless the individual has previously requested that we do not do so. All such communication will provide the option to opt out or unsubscribe. A request to opt out or unsubscribe can also be sent directly to [info@MHSinhomecare.com.au](mailto:info@MHSinhomecare.com.au) or call us on 1300 10 30 10.

## 2.2 Employee information

We may use/disclose employees' or prospective employees' personal information, with consent, to:

- obtain references from former employers or give references to potential employers;
- verify qualifications with educational or vocational organisations;
- conduct background and criminal records checks (provided that the organisation complies with privacy laws).

Some Personal information may be shared with clients, their family members/guardians and/or their authorised representatives for the purposes of service provision;

Personal information may be shared for the purpose of service provision, performance management and general operations;

Personal information may be shared as part of mandatory inspections or investigations by the ATO, Fair Work, WorkSafe/SafeWork, police, government departments (e.g. Department of Health), Commissions or their delegates.

When dealing with employee personal information, MHS will endeavour to:

- Limit the collection of information
- Provide notice to individuals about the potential collection, use and disclosure of personal information
- Keep employee's personal information accurate, complete and up to date
- Keep employee's personal information secure
- Provide employees access to their personal information

## 2.3 Disclosure to third party service providers

We may disclose client Personal Information to third party contractors and service providers that help us to operate our business and to deliver services to clients, such as, without limitation, IT service providers, Allied Health providers, General Practitioners, Hospitals, payment system operators, financial institutions, debt collectors, couriers, accountants, solicitors, business advisors and referral services (including to enable the referral service to verify whether a client was referred to us by that service).

When MHS provides Personal Information to companies who perform services on our behalf, we require those companies to protect Personal Information as diligently as we do. Strict contractual and other quality assurance measures are used to ensure Personal Information is protected.

## 2.4 Disclosure to relatives and guardians

There are certain instances where MHS may need to share or disclose an individual's Personal Health Information to a person who is responsible for the individual (i.e. a parent, child, sibling, relative, guardian or power of attorney). We may do so, in accordance with Health Privacy Principle 2, if:

- the individual is incapable of giving consent or communicating consent;
- MHS Management or Coordination staff are satisfied that the disclosure is necessary to provide appropriate care or treatment, is made for compassionate reasons or for the purposes of undertaking a quality review of our services; or
- the disclosure is not contrary to any wish previously expressed by the individual which the organisation is aware of, or of which the organisation could reasonably be expected to be aware, and the disclosure is limited to the extent reasonable and necessary for providing care or treatment.

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## 2.5 Disclosures required or permitted by law

In some circumstances we are authorised or required by law to disclose certain personal information. For example:

- disclosure to various government departments and agencies such as the Australian Taxation Office, Centrelink, Child Support Agency, or disclosure to courts under subpoena; and
- disclosure permitted under Health Privacy Principle 2, where MHS:
  - reasonably believes that disclosure is necessary to prevent or lessen a serious and imminent threat to an individual's life, health or safety or a serious threat to public health or public safety;
  - has reason to suspect unlawful activity and uses or discloses the Personal Information as part of our investigation of the matter or in reporting our concerns to the relevant authorities;
  - reasonably believes that the use or disclosure is reasonably necessary to allow an enforcement body to enforce laws, protect the public revenue, prevent seriously improper conduct or prepare or conduct legal proceedings.

## 3. Data Security

MHS does not store any of your confidential material overseas. If we do, we will take all reasonable steps to ensure the overseas recipient does not breach the Australian Privacy Principles or the overseas recipient is subject to laws similar to the Australian Privacy Principles.

MHS will take reasonable steps to protect Personal Information that we hold from misuse, interference, loss or unauthorised access, modification or disclosure.

Our security measures include, but are not limited to:

- Training our staff on their obligations with respect to your personal information and ensuring they protect and respect your privacy, dignity and confidentiality at all times.
- Client and staff records are stored electronically and use of passwords is required when accessing our data storage systems
- Use of firewalls and virus scanning tools to protect against unauthorised interference and access

Contractors working on behalf of MHS are required to:

- Comply with all Australian privacy laws and the Australian Privacy Principles
- Have up to date software protection installed on any device used to access or store personal information
- Notify MHS immediately of any actual or potential breaches of security Personal and Health Information may also be held within a client's home as part of their health care record. While MHS endeavours to ensure this is only accessed by employees in order to provide appropriate care, it is acknowledged that access by others is possible and is outside of the control of MHS.

We will, in accordance with the law, destroy or deidentify and personal information that is no longer required for our functions


## 4. Access or changes to Personal Information

We endeavour to ensure that the personal information we hold is accurate, complete and up to date.

Individuals may request access to their own Personal Information kept by MHS and have a right to advise us of any perceived inaccuracy. Where reasonable and practical to do so, and in accordance with the provisions of the Privacy Act and Health Records Act, MHS will provide access to an individual's personal information.

There may be instances where we cannot grant you access to the Personal Information or Health Information we hold. For example, we will refuse access if granting access would interfere with the privacy of others or if it would result in a breach of confidentiality. If that happens, we will give you written reasons for any refusal.

If you believe that the personal information we hold about you is incorrect, incomplete or inaccurate, then you can request us to amend it. We will consider if the information requires amendment. If we do not agree that there are grounds for amendment, then we will add a note to the personal information stating that you disagree with it.

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In all cases, MHS must be satisfied access to/or changes to information are authorised by the individual in question.

## 5. Notification

When we collect Personal Information directly from an individual, we will take all reasonable steps to ensure that they are aware of the collection of their Personal Information.

If information is collected from a 3<sup>rd</sup> party, reasonable steps will be taken to notify the individual or otherwise ensure that the individual is aware that the information will, or may, be passed on to us.

## 6. Data Breaches

Under the **Notifiable Data Breaches Scheme** (Part IIIIC of the Privacy Act 1988), MHS have an obligation to notify affected individuals and the Office of the Australian Information Commissioner (OAIC) about an eligible data breach which is likely to cause serious harm to any of the individuals to whom the information relates.

In the event of a data breach, MHS will:

- investigate suspected security incidents to determine if an eligible data breach has occurred so that it can be reported;
- assess the risk of serious harm to affected individuals if personal information is disclosed or lost;
- notify affected individuals and the OAIC where applicable;
- review any contracts with third parties who hold personal information on behalf of the entity and ensure that adequate contractual provisions are in place to manage compliance with the notification regime;
- Record the data breach in our Incident Management Database to ensure a record is maintained of how the breach or suspected breach was managed.

### 6.1 Data Breach Notification Obligations

- In the event of an eligible data breach, MHS is required to notify the Office of the Australian Information Commissioner (OAIC) using the online [Notifiable Data Breach Statement Form](#) and affected individuals as soon as practicable after becoming aware that there are reasonable grounds to believe that there has been an eligible data breach.
- If MHS has taken remedial actions and steps to address any potential harm to individuals to whom the information relates before any serious harm is caused, there is no mandatory obligation to report the data breach. The incident should still be recorded in Risk Wizard as documented evidence of the remedial actions and steps taken to mitigate any serious harm.

## 7. Making a Complaint (Grievance Procedure)

Privacy Law is regulated by the Australian Information Commissioner. Further information about privacy legislation can be obtained from the Office of the Australian Information Commissioner website at [www.oaic.gov.au](http://www.oaic.gov.au)

MHS takes all complaints seriously. Anyone who wishes to make a complaint about the way Miracle Health Services has managed their Personal Information may make that complaint verbally or in writing by setting out the details of the complaint to any of the following:

- Miracle Health Services Privacy Officer,  
Phone: 1300 10 30 10  
Email: [privacy@MHSinhomecare.com.au](mailto:privacy@MHSinhomecare.com.au)
  - Office of the Australian Information Commissioner.
    - Online: <http://www.oaic.gov.au/privacy/making-a-privacy-complaint>
    - By phone: 1300 363 992
    - In writing to Office of the Australian Information Commissioner
- GPO Box 5218,  
Sydney NSW 2001