

Request for access to personal health information

Policy

Patients of this practice have the right to access their personal (and health) information under legislation. The *Privacy Act 1988* and *Australian Privacy Principles* (APPs) govern health service providers' and other organisations' obligations to give patients access to their personal health information on request, subject to certain exceptions and the payment of fees (if any).

This practice complies with the *Privacy Act 1988* and APPs adopted therein. These regulations give patients 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 any data is incorrect.

We have a privacy policy in place that sets out how to manage personal health information and the steps an individual must take to obtain access to this information. This includes the different forms of access and the applicable timeframes and fees (refer to **Section 6.3 – Practice privacy policy**).

Where our practice holds reports or other health information from another organisation, such as a medical specialist, we are required to provide access to this information in the same manner as for the records we create. We are also required to provide access to records which have been transferred to us from another health service provider.

Procedure

A notice is displayed in our waiting room, on our website and in our practice information sheet advising patients and others of their rights of access to information we hold about them, and of our commitment to privacy legislation compliance. An information brochure is also available that provides further details if required.

Personal health information about a patient will only be released in accordance with the relevant privacy laws and at the discretion of the patient's usual general practitioner.

Although patients can request access to their personal health information verbally, we request that patients complete a *Personal Health Information Request Form* which outlines the type of information being requested, and in what format the patient requests to receive the information. Completion of this form ensures correct processing is undertaken and appropriate consent is obtained, particularly where the patient is requesting their information be sent to them through an unsecure method (i.e. facsimile, mail, email).

The completed request form is then forwarded to the patient's usual general practitioner to review, and consider the request. In considering the request, it is important that the practitioner answers the following questions:

- Would access pose a serious threat to the life or health of anyone, including the patient?
- If it is possible to provide the information in another form which would remove the threat, for example discussing in person with the applicant, then this could be an option.
- Will the privacy of others be compromised?
- It may be possible to remove the other person's identification prior to release of information. Check remaining parts of the record to not reveal the person's identification. You can try to contact the other person for their consent to release information in the record. Consider if this contact may cause a privacy risk for the patient.
- Is the request frivolous or vexatious?
- Does the information relate to existing or anticipated legal proceedings?
- Would access prejudice negotiations with the individual, for example regarding negligence or other claim?
- Would access be unlawful due to other legislation?
- Where any Commonwealth or Victoria law prohibits this or if it would breach any other statutory or common law (e.g. Adoption Act, Infertility Treatment Act).

Where 'yes' was answered for any of the questions, there may be grounds for denying access to the record or certain parts thereof. Where there is no reason to deny access, the general practitioner is to proceed to peruse record to ascertain if all information being requested is still suitable for release.

To meet the costs associated with reviewing and preparing personal health information to be released to a patient, our practice charges an administrative fee. A list of the fees associated with the types of information being requested is located at the front desk where a staff member will be able to inform the patient.

When a patient requests access to their health record and related personal information, we document each request in the patient's health record. We 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.

Where there are grounds to deny a patient access to their personal health information (all or part thereof), the reasons for denied access is provided to the patient in writing. An intermediary may operate as facilitator to provide sufficient access to meet the needs of both the patient and the general practice.

Patients may request to access their personal health information in the following ways:

- View and inspect (patient is to make an appointment)
- View, inspect and discuss contents (patient is to make an appointment)
- Obtain a copy - collect
- Obtain a copy - send via mail
- Obtain a copy - send via facsimile, and/or

- Obtain a copy - send via email.

We respect an individual's privacy and allow access to information via personal viewing in a secure private area in consultation with their general practitioner. A fee is not charged in this circumstance, and the patient may take notes of the content of their record. Fees will be charged when a photocopy of the information is requested.

A patient may ask to have their personal health information amended if they consider it is not up-to-date, accurate or complete. Our practice aims to correct this information as soon as reasonably practicable and any corrections made are attached to the original health record.

Where there is a disagreement about whether the information is indeed correct, we attach a statement to the original record outlining the patient's claims.

Request by another person who is not the 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.

The *Privacy Act 1988* defines a 'responsible person' for an individual as:

- A parent of the individual, or
- A child or sibling of the individual if the child or sibling is at least 18 years old, or
- A spouse or de facto partner of the individual, or
- A relative of the individual if the relative is:
 - At least 18 years old, and
 - A member of the individual's household, or
 - A guardian of the individual, or
 - A person exercising an enduring power of attorney granted by the individual that is exercisable in relation to decisions about the individual's health, or
 - A person who has an intimate personal relationship with the individual, or
 - A person nominated by the individual to be contacted in case of emergency.

Where a young person is capable of making their own decisions regarding their privacy, they should be allowed to do so. The general practitioner could discuss the child's record with their parent; however, each case is to be managed subject to the individual circumstances. A parent will not necessarily have the right to their child's information.

Deceased Persons

Privacy protections that are in place for personal patient health information applies even after a person's death; however, in some situations these privacy interests may be reduced, or there may be other factors that outweigh the privacy interests which favour disclosure of the information. 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; however,

we recommend that the general practitioner contacts their medical defence organisation for advice when receiving these requests.