



Privacy of Health Information

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Lead DHB: HVDHB	Level: 1. Organisation wide

Contents

Purpose:	1
Scope:.....	2
Principles:.....	2
Definitions:.....	2
Rule 1 – Purpose of collecting information	3
Rule 2 – Source of health information.....	3
Rule 3 – Collection from the individual.....	3
Rule 4 – Manner of collecting information.....	4
Rule 5 – Security of health information	4
Availability of personal health information for clinical purposes.....	4
Rule 6 – Right of access to personal health information	4
Reasons for refusing access	4
Rule 7 – Requests for correction.....	5
Rule 8 – Accuracy of information.....	5
Rule 9 – Retention of health information.....	5
Rule 10 – Use of health information.....	6
Rule 11 – Disclosure of health information	6
Rule 12 - Assignment of Unique Identifiers	6
Privacy - Best Practice Guidelines	7
Office/Reception/Areas	7
Clinical Records	7
Identity of Patients.....	7
Facsimiles (fax) and emails, texts.....	8
Answer Phones	8
General.....	8
References	9
Associated Documents.....	9
Associated Websites	9

Purpose:

This policy addresses the requirements of the Privacy Act 1993 and the Health Information Privacy Code (1994). It provides guidance for Hutt Valley DHB (HVDHB) staff regarding the management of health information including access and disclosure.

Document author: Privacy Officer		
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Issue date: March 2015	Review date: March 2018	Date first issued: March 2007
Document ID: PRIV.001	Page 1 of 9	

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The policy applies to all health and disability services provided by HVDHB and recognises the importance of family/whānau (persons of importance) and culture to the individual¹.

The Privacy Officer at HVDHB can be contacted for advice and training. To contact the Hutt Valley DHB Privacy Officer email HVPrivacy@huttvalleydhb.org.nz or phone ext 9516

Scope:

This policy applies to:

- All volunteers and employed staff at HVDHB.
- Visiting health professionals and students undertaking training or education within the organisation.
- Independent external contractors providing any service to HVDHB

Principles:

This policy covers personal information relating to any individual of HVDHB health or disability services. This information is often sensitive and important to the individual concerned, however HVDHB recognises that ready access to accurate health information is essential for the provision of appropriate clinical care and treatment.

Definitions:

Health Information	<p>personal health information about an identifiable individual and includes:</p> <ul style="list-style-type: none"> • Information about the health of an individual including his or her medical history; • Information about any disabilities that individual has, or has had; • Information about any health or disability services that are being provided or have been provided to that individual; • Information provided by that individual in connection with the donation by that individual of any body part or any bodily substance or derived from the testing or examination of any body part or bodily substance.
Privacy Officer	<p>The role of the Privacy Officer includes:</p> <ul style="list-style-type: none"> • Promoting privacy by encouraging compliance with the Code; • Providing advice in privacy matters; • Liaison as appropriate with the Office of the Privacy Commissioner, Health and Disability Commission; or the Ombudsman; • Responding as appropriate to complaints from clients about possible breaches of privacy;
Official Information Act (OIA) Requests	<p>The Official Information Act (OIA) allows New Zealanders to have access to information that enables their participation in government, and hold governments and government agencies to account.</p> <p>The OIA allows anyone who is in New Zealand to request any official information held by government agencies including DHB's.</p>

¹ "Individual" includes patient, consumer and tangata whaiora

Document author: Privacy Officer		
Authorised by Patient Safety Leadership Group		
Issue date: March 2015	Review date: March 2018	Date first issued: March 2007
Document ID: PRIV.001	Page 2 of 9	

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	<p>Any request for information held by Hutt Valley DHB, regardless of whether it is made verbally or in writing, is covered by the Official Information Act. The requestor does not need to mention the Act in making the request.</p> <p>OIA requests should be forwarded to the Executive Administrator, Chief Executive's office for processing.</p> <p>Email: RES-OIArequest@huttvalleydhb.org.nz</p>
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Information Privacy Principles

At the core of the Privacy Act are 12 information privacy principles that set out how agencies may collect, store, use and disclose personal information.

The Privacy Act uses the term "agency". An agency is any individual, organisation or business, whether in the public sector or the private sector. There are a few exceptions such as MPs, courts, and the news media. Generally, though, if a person or body holds personal information, they have to comply with the privacy principles. See the Privacy Act, section 2, for the full definition of "agency".

"Personal information" is any information about an individual (a living natural person) as long as that individual can be identified.

Rule 1 – Purpose of collecting information

Health information must only be collected for a lawful purpose connected with a function or activity of the DHB.

Health information should not be collected if it is unnecessary to that needed to provide health or disability services to an individual, namely: details of income, sexual orientation etc., unless this information is necessary in order to provide care and treatment to that individual.

Rule 2 – Source of health information

Health information should be collected directly from the individual concerned, unless it can be clearly shown that:

- The individual, has authorised collection from someone else;
- Collecting information directly from the individual, would prejudice the individual's interests, would prejudice the purpose of collection or would prejudice the safety of another person;
- Collection of information directly from the individual would not be practicable in the circumstances e.g. an unconscious patient.

Health professionals should always try to obtain information (in the first instance) from the individual concerned and should verify with the patient, when possible, information collected from another source or person.

Rule 3 – Collection from the individual

When information is being collected, staff must take all reasonable steps to ensure that:

Document author: Privacy Officer		
Authorised by Patient Safety Leadership Group		
Issue date: March 2015	Review date: March 2018	Date first issued: March 2007
Document ID: PRIV.001	Page 3 of 9	

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- The individual knows that the health information is being collected;
- Why the information is being collected;
- The intended recipients of that information;
- Whether it is voluntary or mandatory by law to collect the health information;
- The consequences of not providing the information requested; and
- The individual's right of access to, and correction, of health information.

Rule 4 – Manner of collecting information

The manner in which health information is collected must be fair, lawful and not unreasonably intrude into the individual's privacy particularly when collecting information about the individual's, gender, culture or ethnicity, or in the presence of others.

Rule 5 – Security of health information

Rule 5 requires HVDHB to take reasonable security safeguards with health information against the following:

- Loss of health information;
- Access, use, modification, or disclosure of health information, except with authorisation from HVDHB; and
- Other misuse.

Safeguarding and securing health information belonging to an individual is the responsibility of all HVDHB personnel who handle the individual's health information.

Physical, operational and technical arrangements for the security of the information will be appropriate to the particular service in which the information is being held or used and the purpose for which the information has been collected.

Availability of personal health information for clinical purposes

Any person who has custody of a medical record or other item of health information is responsible for ensuring that:

- They know the policies relating to the tracking, storage and security of information and abide by them; and
- The information is readily accessible and can be transferred to any service of HVDHB within a reasonable period of time when the information is required for the provision of health and disability services to the individual to whom the information belongs.

Rule 6 – Right of access to personal health information

Everyone has a right of access to their own health information. A request for personal health information by that person is treated as a request under Rule 6 of the Code. There is no need for individual to explain or disclose why they are requiring the information. Requests made by persons wishing to access health information about someone other than themselves are known as third party requests and are actioned under the Official Information Act 1982.

[Click here to see the Release of Clinical Record Information Policy](#)

Reasons for refusing access

Information may only be withheld if it falls within one of the exceptions in the Code. Some of the common exceptions include:

Document author: Privacy Officer		
Authorised by Patient Safety Leadership Group		
Issue date: March 2015	Review date: March 2018	Date first issued: March 2007
Document ID: PRIV.001	Page 4 of 9	

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- Release of the information would be likely to prejudice the maintenance of the law;
- Release of the information would be likely to endanger the safety of an individual;
- Release would involve the unwarranted disclosure of the affairs of another individual or a deceased individual;
- Release would be likely to prejudice the physical or mental health of the requestor.

For an overview of the steps to be taken in providing access to patient information refer to Hutt Valley DHB’s Release of Patient Information Policy.

Rule 7 – Requests for correction

People have the right to ask for their information to be corrected.

If the Hutt Valley DHB is not willing to make a correction, it must, if requested, take reasonable steps to attach a statement of the correction sought, but not made. The statement must be attached so that it will always be read with the disputed information.

When a patient disagrees with a diagnosis and wants it removed from the file, careful consideration must be given before any decision is made to alter the original record. Removing the disputed diagnosis could render the notes incomplete. If it is acknowledged that a diagnosis is wrong this should be recorded alongside the original entry. Clinical information, clinicians’ opinions and other information that was considered factual at the time it was obtained will not be corrected or removed from any records held by HVDHB.

The Hutt Valley DHB is required to provide reasonable assistance to any individual wishing to record a statement of correction. Where a correction has been made, or a statement of correction added to an individual’s record, the DHB must, if reasonably practicable, inform each person or body or agency to whom the health information has been disclosed e.g. the patient’s GP, or treating clinician if care has been provided by another healthcare provider.

Rule 8 – Accuracy of information

Before using health information personnel must take reasonable steps to ensure that the health information is

- Correct
- Up to date
- Complete
- Relevant
- Not misleading.

This is especially important if the information has been collected from a third party and not directly from the individual.

Rule 9 – Retention of health information

Health information must not be kept longer than is required for the purpose for which it may be lawfully used. The Regulations allow information to be transferred from one provider to another during this time. Destruction of personal health information should comply with the Health (Retention of Health Information) Regulations 1996 and any other relevant policies.

Document author: Privacy Officer		
Authorised by Patient Safety Leadership Group		
Issue date: March 2015	Review date: March 2018	Date first issued: March 2007
Document ID: PRIV.001	Page 5 of 9	

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For more information refer to the 3DHB Retention and Disposal Policy.

Rule 10 – Use of health information

Health information obtained or collected must only be used for the purpose for which it was collected. The individual should be told of this purpose(s). Uses which are “directly related” to the purpose for which the information was collected will include administrative purposes.

Some exceptions to Rule 10 include using information for another purpose if it is necessary to prevent or lessen a serious threat to public health or public safety or health of an individual.

Rule 11 – Disclosure of health information

In general terms, health information must not be disclosed unless authorised by the individual or is allowed or permitted by law. A request for access to personal information about someone other than the requestor is known as a third party request.

There are a number of situations when details may have to be disclosed such as when legislation states there must be limited disclosure for specific or law enforcement purposes. **If another law enables health information to be disclosed this will not breach the Privacy Act or the Code provided that HVDHB exercises any discretion given reasonably.**

The information sharing requirements of some other Acts override the Privacy Act – for example the Mental Health (Compulsory Assessment and Treatment) Act 1992; the Health Act 1956; Official Information Act 1982 and the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 set out specific circumstances where information may, or must, be disclosed even without authorisation of the individual.

Where release of personal information is permitted under Rule 11 of the HIPC (or sections 27-29 Of the Privacy act) the disclosure must be made only to the **extent necessary to meet the purpose** of the request.

This Rule is also dealt with in its entirety in the Hutt Valley DHB Release of Patient Information Policy. Please refer to that policy when dealing with disclosure of information.

Rule 12 - Assignment of Unique Identifiers

Some agencies give people a “unique identifier” instead of using their name. Examples are a driver’s licence number, a student ID number, or an IRD number.

A health agency cannot use the unique identifier given to a person by another agency. People are not required to disclose their unique identifier unless this is one of the purposes for which the unique identifier was set up (or directly related to those purposes).

The unique identifier used by the Hutt Valley DHB is the National Health Index (NHI) number.

Document author: Privacy Officer		
Authorised by Patient Safety Leadership Group		
Issue date: March 2015	Review date: March 2018	Date first issued: March 2007
Document ID: PRIV.001	Page 6 of 9	

CONTROLLED DOCUMENT – The electronic version is the most up to date version. The DHB accepts no responsibility for the consequences that may arise from using out of date printed copies of this document.

Privacy - Best Practice Guidelines

Office/Reception/Areas

- Any patient information e.g. operation, clinic lists, clinical records should not be kept/left in places easily accessible or viewable by the public or staff not directly involved in a patient's care.
- Patients should not be asked to verify personal details in reception/waiting areas where they can be overheard by others.
- Outgoing mail awaiting collection should not be left where it is easily accessible to the public.
- All computers should be placed so that PC screens cannot be read except by staff entitled to the information. Screens should be locked when not in use and password protected.
- Any correspondence, old labels or other documentation containing patient information authorised to be discarded must be disposed of in the secure shredding bins.
- Offices and filing cabinets should be locked when unattended.
- Names and details of patients should not be discussed in lifts or any other public areas.

Clinical Records

- All clinical records being transported by hospital staff internally or off-site, including the mail system must be covered and secured at all times.
- Trolleys containing clinical records should not be left in areas accessible to the public or other patients.
- Only those staff members involved in the care and treatment of a patient may have access to that person's clinical records.

Identity of Patients

- Wherever possible, patients should be asked on admission to the ward areas if their name can be displayed on room doors, above beds and on name boards.
- Ideally name boards in wards/units should not be able to be viewed by any members of the public.
- Name boards should only show patient name, room allocation and who is responsible for their care.
- Patients can request that no details be released in relation to their condition.
- Unless specific consent is given, only the general condition of a patient, (e.g. satisfactory) can be released.
- If at all possible, patients should not be asked to verify personal details in waiting rooms/ward areas where they can be overheard.
- When requesting information from a patient, all care should be taken to ensure that this is achieved in a manner that respects the individual's privacy.

Document author: Privacy Officer		
Authorised by Patient Safety Leadership Group		
Issue date: March 2015	Review date: March 2018	Date first issued: March 2007
Document ID: PRIV.001	Page 7 of 9	

CONTROLLED DOCUMENT – The electronic version is the most up to date version. The DHB accepts no responsibility for the consequences that may arise from using out of date printed copies of this document.

- A patient’s consent must be obtained if a photograph is to be taken of them and such consent must be in writing if the photograph is to be used for educational or research purposes. (Please refer to the Hutt Valley DHB Informed Consent Policy and Clinical Photography policy.)

Facsimiles (fax) and emails, texts

Staff have a duty to protect personal information and are trusted to do so. Whilst communication or distributing personal information in health care is “business as usual”, staff need to be sure that the information is sent to the intended recipient and any risks identified.

When a fax or email, text (see email usage policy for further information) is necessary, staff should:

- Check the number/email address of the recipient.
- Check the number/email address before sending e.g. ensure that “autofill” has not added the incorrect email recipient and limit the use of “reply all”.
- Encrypt or password protect the information attached in an email. Limit the information to only that which is necessary e.g. take care with excel spreadsheets as they may contain more information than is required.
- Where practicable, telephone prior to sending so the recipient is aware it is being sent and the relevant password.
- Fax machines should be placed in rooms that can be secured after hours and placed in areas where the public are unable to access information coming through.
- All faxes/emails sent should have a disclaimer attached, which contains one of the following:

“Caution: The information contained in this facsimile is confidential. If the reader is not the intended recipient, you are hereby notified that any use, dissemination, distribution or reproduction of this message is prohibited. If you have received this message in error, please notify us immediately.”

“This email and attachments have been scanned for content and viruses and is believed to be clean. This email or attachments may contain confidential or legally privileged information intended for the sole use of the addressee(s). Any use, redistribution, disclosure, or reproduction of this message, except as intended, is prohibited. If you receive this email in error, please notify the sender and remove all copies of the message, including any attachments. Any views or opinions expressed in this email (unless otherwise stated) may not represent those of Hutt Valley DHB.

Answer Phones

- Leaving messages about or for patients on their answer phones should be avoided.
- When urgent contact is to be made the only message that is acceptable is to leave a telephone number and name for the person to phone back.
- Under no circumstances should the name of the organisation, the clinical area, or reference for any health care treatment be made.

General

- Patient details should be checked with the individual concerned to confirm accuracy and that the details are up to date each time the person presents.
- Information obtained from third parties should be verified with the patient as soon as possible, where practicable.

Document author: Privacy Officer		
Authorised by Patient Safety Leadership Group		
Issue date: March 2015	Review date: March 2018	Date first issued: March 2007
Document ID: PRIV.001	Page 8 of 9	

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- Patients should not be stopped in lifts, corridors or public places and their care discussed.
- Wherever practicable an explanation should be given before information is collected as to its intended use and to whom it may be disclosed.
- Information for patients and members of the public should outline the reasons for collecting the information and the purposes for which it will be used.

References

- Canterbury DHB Privacy policy
- Capital & Coast DHB Privacy Policy

Associated Documents

- Hutt Valley DHB Release of Health Information Policy
- Hutt Valley DHB Informed Consent Policy
- 3DHB Retention and Disposal Policy & Procedure

Numerous pieces of legislation have an impact on the way in which HVDHB manages personal information it receives and generates including:

- Privacy Act 1993
- Health Information Privacy Code 1994
- Health and Disability Commissioner Act 1994
- Code of Health and Disability Services Consumers' Rights (1996)
- Mental Health (Compulsory Assessment and Treatment) Act 1992
- Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003
- Health Act 1956, regulations and amendments
- the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017
- Official Information Act 1982
- Land Transport Act 1998
- Misuse of Drugs Act 1975
- Medicines Act 1981
- Criminal Disclosures Act 2008

Associated Websites

- Privacy Commissioner www.privacy.org.nz
- Nursing Council www.nursingcouncil.org.nz
- Medical Council www.mcnz.org.nz
- Health and Disability Commissioner www.hdc.org.nz
- [Health](http://www.hqsc.govt.nz) Quality & Safety Commission www.hqsc.govt.nz
- Standards NZ www.standards.co.nz
- Ministry of Health www.moh.govt.nz
- Mental Health Commission www.mhc.govt.nz

Document author: Privacy Officer		
Authorised by Patient Safety Leadership Group		
Issue date: March 2015	Review date: March 2018	Date first issued: March 2007
Document ID: PRIV.001	Page 9 of 9	

CONTROLLED DOCUMENT – The electronic version is the most up to date version. The DHB accepts no responsibility for the consequences that may arise from using out of date printed copies of this document.