



PRIVACY GUIDELINES

FOR QUEENSLAND HEALTH STAFF & GENERAL PRACTITIONERS TO SUPPORT CONTINUITY OF CARE IN QUEENSLAND

FAQs

HOW MUCH INFORMATION IS "NECESSARY" FOR AN EPISODE OF CARE?

The health professional involved decides how much information is necessary. It is appropriate to collect all information that may influence decisions and outcomes for this particular episode. However, where a health issue has no relevance to this particular episode, information should not be collected. This is a matter of clinical judgement.

WHAT IF I NEED TO TAKE A THOROUGH MEDICAL HISTORY – AM I BEING "INTRUSIVE"?

No, you are not being intrusive. If a thorough medical history is necessary for the patient's care, then it is appropriate – this is a decision made by the health professional.

DO GPs NEED TO OBTAIN WRITTEN CONSENT BEFORE DISCLOSING RELEVANT INFORMATION TO QH STAFF?

No. While written consent is not necessary, GPs do need to obtain the patient's consent to the disclosure. The GP may ask for verbal consent, or consent may be implied. The individual GP needs to decide what form of consent is appropriate depending on the particular situation.

DO QH STAFF NEED TO VIEW A COMPLETED PATIENT CONSENT FORM BEFORE PROVIDING INFORMATION TO A GP FOR THE PURPOSES OF CARE AND TREATMENT?

Information being provided by a QH health professional to a GP does not require QH staff to view a completed patient consent form.

Where this information is being provided by a QH staff member other than a health professional, the GP is required to provide evidence of patient consent. The form of consent required in this situation is determined at a local level and will be communicated to the GP.

THESE GUIDELINES have been developed to support the sharing of health information for episodes of patient care between general practitioners in private practice and Queensland Health.

The guidelines apply where the patient has capacity and can consent to information collection, use and disclosure. More complex situations (for example, where the patient is unable to consent due to age or capacity) may require additional privacy information.

KEY CONTINUITY OF CARE PRIVACY PRINCIPLES

1. COLLECT ONLY NECESSARY HEALTH INFORMATION

- Collect only the information necessary to deliver the health service
- Collect lawfully, fairly and not intrusively
- Collect the information directly from the individual concerned if possible
- Obtain a person's consent (either express or implied) to collect health information about them

2. BE OPEN ABOUT INFORMATION HANDLING PRACTICES

All health service providers should have a document available for the public which clearly explains their information handling practices. This document should deal with the sharing of relevant health information between health service providers for the purpose of continuity of care planning with consent (either implied or express).

Many health service providers will already have this type of document. In the case of Queensland Health, information handling practices are explained in the Department's privacy brochure entitled Respecting your privacy: what happens to your personal information.

3. LIMIT DISCLOSURE TO WHAT IS RELEVANT FOR THIS EPISODE OF CARE

For the purpose of continuity of care:

- general practitioners in private practice can only disclose health information with consent (either express or implied), or where they can demonstrate that the disclosure for continuity of care is directly related to the primary reason they collected the health information and that the individual would reasonably expect the practitioner to disclose the information for that purpose.
- health professionals employed by Queensland Health can disclose health information with consent (either express or implied) but may also disclose for care or treatment without consent. In the latter case, the disclosure must be made by a health professional. Although legally consent is not required for disclosure for care or treatment it is considered to be best practice to discuss the disclosure with the patient to ensure that they are fully informed. See Part 7 of the Health Services Act 1991 for a definition of health professional.

PROCESSES, TEMPLATES AND EXAMPLES

OF APPLYING THESE GUIDELINES IN CLINICAL PRACTICE CAN BE FOUND AT WWW.GPAC.NET.AU

The General Practice Advisory Council, in partnership with Queensland Health, has developed these Privacy Guidelines to support the implementation of the Continuity of Care Planning Framework. We invite Queensland Health staff and General Practitioners to work together in partnership to use these Guidelines to assist with their implementation of the Continuity of Care Planning Framework.



Dr. Fiona McGrath
Chair, GPAC



Ms Uschi Schreiber
Director General, Queensland Health



CONSENT

Consent is relevant to many decisions about how health information is collected, used or disclosed. The following explains the concept of consent as it relates to the handling of health information. It does **not** encompass consent to treatment. While, in practice, consent to handling information and consent to treatment may occur at the same time, they are distinct authorities to do different things.

KEY ELEMENTS OF CONSENT

The key elements of consent are:

Consent must be voluntary – The individual must have a genuine opportunity to provide or withhold consent. They must be able to say “yes” or “no” without pressure that would equate to an overpowering of will.

Consent must be informed – The individual must know what it is they are agreeing to. The individual needs to be aware of the implications of providing or withholding consent, having received the information in a way meaningful to them and appropriate in the circumstances.

The individual must have capacity to consent – The individual must be capable of understanding the issues relating to the decision, forming a view based on reasoned judgement and communicating their decision.

CONSENT MAY BE EXPRESS OR IMPLIED

Express consent refers to consent to handle information that is clearly and unmistakably stated. It can be obtained either in writing, orally, or in another form where the consent is clearly communicated. As a general rule if there is any doubt about whether a person is giving consent the health service provider should obtain express consent.

There are circumstances however where a health service provider may reasonably rely on **implied consent** to handle an individual’s health information in certain ways. For example, a patient presents to a health service practitioner and discloses health information that is written down by the practitioner during the consultation. This will generally be regarded as giving implied consent to the practitioner to collect the information for certain purposes. The extent of these purposes will usually be evident from the discussion during the consultation.

Where there is open communication and information sharing between the health service provider and the individual, consent issues will usually be addressed in the course of the consultation or treatment. If the discussion has provided the individual with an understanding about how their health information may be used, then it would be reasonable for the health service provider to rely on implied consent.

HOW TO USE THESE GUIDELINES

These guidelines provide GPs and QH staff with information about privacy in relation to continuity of care. They will help GPs and QH staff become aware of how to provide information to other service providers for the purposes of care and treatment for their patient while still addressing all necessary privacy principles. They may also be helpful when guiding QH health staff and/or GPs and practices to appropriate resources to confirm relevant privacy requirements.

The guidelines **support** continuity of care and **encourage** the exchange of patient health information when necessary for best practice care and treatment.

PRACTICAL EXAMPLE

A GP meets with a new patient and takes a comprehensive medical history as part of good patient care. This identifies a family history of bowel cancer and the patient requires a colonoscopy investigation. The GP makes file notes in the presence of the patient, then completes a referral to the local public hospital for the colonoscopy. The patient indicates that they would prefer that some of their medical history is not passed onto the hospital at this time. The GP reassures the patient that only information relevant to the colonoscopy would be given to the hospital, to which the patient agrees.

Some time later, the patient returns to the GP to discuss the outcome of the colonoscopy. The results of some biopsies taken during the procedure have not been viewed by the GP. Whilst the patient is present, the GP telephones the hospital to request the results of the biopsies. The pathology department explains to the GP that patient consent was not obtained in relation to providing the results to the GP, and therefore that information cannot be given out. The GP refers the pathology department to the GPAC Privacy Guidelines where it is stated that a QH health professional can provide relevant information concerning the patient’s care and treatment (patient consent is not essential). The patient has also provided verbal consent for the release of this information. The results are faxed to the GP surgery by a QH health professional to assist with the care and treatment of the patient.

WHERE TO GO FOR FURTHER PRIVACY INFORMATION

GENERAL PRACTITIONERS should refer to the *Guidelines on Privacy in the Private Health Sector* available on the website of the Office of the Federal Privacy Commissioner (www.privacy.gov.au) or through 1300 363 992 OR the *Handbook for the Management of Health Information in Private Medical Practice* available on the RACGP website (www.racgp.org.au)

QUEENSLAND HEALTH OFFICERS should consult the Confidentiality Guidelines to Part 7 of the *Health Services Act*, available on the Department’s intranet (QHEPS), or contact their local Privacy Contact Officer. Contact details are available at www.health.qld.gov.au