

ACCESS AND AMENDMENT TO PATIENT INFORMATION BY THE PATIENT, PARENT, GUARDIAN OR OTHER PARTIES POLICY®

DOCUMENT SUMMARY/KEY POINTS

- Patients/Parents have a right to access information about themselves or their children held by The Sydney Children's Hospital Network (SCHN). Patients aged 16 and older have the same rights to the information held about them by SCHN that adults have.
 - For every request for such access the Medico-Legal officer in the Health Information Units reviews the patient's medical record. If it appears that information in the health care record may be possibly harmful to the requestor/patient then the Medico-legal officer consults with the relevant doctor(s) to determine if access should be granted or not.
 - Access may be denied if:
 - access may place the person seeking their information, or another person, **at risk of significant harm**
- OR**
- release would affect the **personal affairs** of any person
- All requests for access to health records by clients/patients/guardian whether they be inpatient, outpatients or following discharge, or from Other Care Facilities or Other Third Parties should be referred to the Health Information Units (Randwick or Westmead)
 - All access to medical records is in accordance with the Health Records and Information Privacy Act (HRIP) 2002.

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| Approved by: | Director, Clinical Governance | |
| Date Effective: | 1 st April 2017 | Review Period: 3 years |
| Team Leader: | Manager (SCHN) | Area/Dept: Medical Records |

CHANGE SUMMARY

- CHW policy of the same title has been rescinded and is replaced by this SCHN policy.
- No major changes – links updated.

READ ACKNOWLEDGEMENT

- All staff should be aware of this policy and adhere to the legal requirements.

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1 Access to health information by the Patient/Parent

Legislation

According to the Health Records and Information Privacy (HRIP) Act 2002 and the Government Information (Public Access) Act 2009 [GIPA Act]:

- Clients/patients have a right to access information about them held by The Sydney Children's Hospital Network (SCHN).
- When applying to access a patient health care record under the HRIP Act, an application form must be completed: <http://www.schn.health.nsw.gov.au/parents-and-carers/your-familys-rights/right-to-obtain-information>
- Clients/patients can access their information under the **HRIP Act**, but under certain circumstances, access may be refused.
- Access to information can then be sought under the GIPA Act (formerly Freedom of Information (FOI) Act). However, under certain conditions, access may also be refused. Clients/patients should use the following form in this situation:
<http://www.schn.health.nsw.gov.au/parents-and-carers/your-familys-rights/right-to-obtain-information>
- The NSW Health Privacy Manual provides operational guidance for health service staff to the legislative obligations imposed by the HRIP Act.
- The Health Privacy Principles (HPPs) contained in the HRIP Act establish rules for the management of information.
 - HPP 6 requires a health service to take reasonable steps to allow a person to ascertain if the Service holds information about them.
 - HPP 7 establishes a right to seek access to that information.
 - <http://www.schn.health.nsw.gov.au/parents-and-carers/your-familys-rights>

SCHN is required to inform clients of these options at the time information is sought. SCHN meets its obligations under the Act by displaying Privacy Patient Information Leaflets and Privacy Posters.

http://www.schn.health.nsw.gov.au/files/attachments/schn_privacy_leaflet.pdf

2 Patient Age to Access Information

- Patient under the age of 14 require parental consent to access information.
- Patients between the ages of 14-16 can access their own information however, parental consent is also required. In the event that the patient does not consent, their wishes are paramount over the parents, if they are of sound mind.

- Patients aged 16 years and older have the same rights to the information held about them by SCHN that adults have.

3 Interaction of HRIP Act and GIPA Act

- The general principle under both the Privacy and GIPA legislation is that a person will be presumed to have a right to access their own records.
- The HRIP Act recognises however that sometimes circumstances will arise where granting access may be refused. This is most often likely to arise where access may place the person seeking their information, or another person, **at risk of significant harm**.
- Sections of the GIPA Act allows access to be restricted if the release would affect the **personal affairs** of any person. This specifically includes medical or psychiatric information concerning the applicant where the release may have an adverse impact on their physical or mental health. This would also cover a request by a parent or guardian where there are reasonable grounds for believing that access may lead to child abuse or be prejudicial to the child's physical or mental health. When access is sought, staff should carefully review the fine details to ascertain if these issues arise.
- **All requests for access to health records by clients/patients, whether they are inpatients, outpatients or following discharge, should be referred to the Health Information Unit** within normal working hours.

4 Permission to Release/Obtain Information with other Care Facilities

(For example another Health Care Facility or a Child Care Centre or School)

Under the HRIP Act, staff members of SCHN are permitted to exchange information with an ongoing care facility. However, patients/parents need to be informed (i.e. have this explained to them and/or receive the brochure 'Your Child's Health Information Privacy and Access'. The following form may be used to capture consent for information release:

http://intranet.schn.health.nsw.gov.au/files/consent_to_obtain_information_0.pdf

At each facility, SCHN must display "How we manage your health information" posters in patient care areas.

Further information and resources

Staff can access the SCHN Privacy site at: <http://www.schn.health.nsw.gov.au/parents-and-carers/your-familys-rights/privacy-of-patient-information>

5 Permission to Release Information to Other Third Parties

Patient information can only be released to other third parties, including Solicitors, who claim to be acting for the patient, with the written permission to release that information by the Patient or Patient's Parent or Guardian.

In this situation, consent must be obtained. Please use this form:

http://intranet.schn.health.nsw.gov.au/files/consent_to_release_health_information_0.pdf

6 Release of Information under Chapter 16A requests

[Chapter 16A of the Children and Young Persons (Care and Protection) Act 1998 (NSW)]

- Keep them Safe is the NSW Government's five-year plan to fundamentally change the way children and families are supported and protected in this state.
- The legislation allows information regarding the health and wellbeing of a patient to be provided and exchanged between prescribed bodies, including government and non-government agencies, relating to the safety, welfare and wellbeing of children or young people.
- Refer to the following site for further information:
 - http://chw.schn.health.nsw.gov.au/ou/child_protection/resources/keep_them_safe/
- Release of information under Chapter 16A requests must be in line with the SCHN policy "Information Sharing with other Agencies"

7 Release of Information under Chapter 13A requests

- The Crimes (Domestic and Personal Violence) Act 2007 was amended by inserting Part 13A to allow information sharing and improve integrated responses to domestic violence.
- The Protocol explains Part 13A and must be referred to by service providers to ensure they collect, use or share personal and health information of victims, perpetrators or other persons lawfully.
- Part 13A allows sharing personal and health information about victims, perpetrators and other persons between service providers in defined circumstances. This chapter explains the legal basis and legitimate purposes for sharing information under Part 13A.
- Refer to the following document for further information
http://www.domesticviolence.nsw.gov.au/_data/assets/file/0019/301177/DV-info-Sharing-Protocol.pdf

8 Releasing of Information under a Subpoena

- Responses to Subpoenas must be submitted to the Court at least two days before the hearing date as noted on the schedule. All documents outlined in the schedule must be produced for court complied with.
- Release of information under subpoena must be in line with the SCHN policy “Summonses, Subpoenas and Legal Proceedings”:

9 Amendment of Patient/Parent Information

- The HRIP Act also allows individuals to request changes to their personal health information.
- A change can be requested to ensure that:
 - The information is accurate.
 - The information is relevant, up to date, complete and not misleading, taking into account the purpose for which the information is collected and used.
- Health services should not alter a record unless it is viewed necessary to do so in line with the above criteria.
- Requests for amendments must be made in writing and addressed to ‘The Health Information Manager’ and where possible the following form should be used.
- SCHN has an amendment notation form that can be provided to applicants requesting an amendment. http://intranet.schn.health.nsw.gov.au/files/amendment_notation_0.pdf
- The patient should be notified of the outcome of their request for amendment, and if the amendment is refused, the reason for the refusal.
- The requested amendments will be reviewed by the Health Information Manager, in consultation with the persons who documented in the records the items in contention.
- The reason for the amendment should be noted in the patients’ health care record file and signed.
- Original entries should not be erased but lined through so the original entry remains.

Where SCHN is not willing to make the requested changes, HRIP requires the hospital to take such steps that are reasonable to attach additional information to the record. The clients/patients’ own comments should be attached as an addendum to the record on request, along with an explanation of the circumstances.

- In situations where information has been amended and the original information is contained in correspondence or any documents that have been circulated to external parties (e.g. Community Services) the following procedure should be followed:
 - Clinician who made the initial entry is to be contacted regarding the data in question.

- If the entry has been found to be incorrect or inaccurate, the clinician who documented the entry will need to contact the external party (e.g. Community Services helpline) and verbally inform them of information that they now believe to be inaccurate.
- A written note to the caseworker will also need to be made by the clinicians outlining the incorrect entry and stating the correct entry.

NB it is up to the Community Services case worker to assess the information independently and decide how this then influences their management decision.

- Reasonable effort should be made to ensure that Community Services are informed of the amended information.
- An alert is to be added onto the patients scanned record (via document imaging) to highlight that there are amendments that have been made to the record and these must also be read in conjunction with the original medical record.

10 Further Information

Please refer to:

- NSW Health PD2005_593: Privacy Manual
<http://www.health.nsw.gov.au/policies/manuals/pages/privacy-manual-for-health-information.aspx>
- NSW Health PD2005_235: Charges for Health Records and Medical Reports
http://www.health.nsw.gov.au/policies/pd/2006/pdf/PD2006_050.pdf

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