



SEYMOUR DISTRICT MEMORIAL HOSPITAL

Policy No: **A 02**

General Policies Manual

Devised:

Section:

Last Revised:

Adopted:.....(Date)

at.....Meeting:

Approved By:.....(Date)

ACCESS TO HEALTH INFORMATION

Right Of Access

The *Freedom of Information (FOI) Act 1982* and *Health Records Act 2001* allows individuals a right of access to 'health information' about themselves, which is held by Seymour District Memorial Hospital.

'Health Information' means:

1. All identifying personal information collected to provide a health service.
2. Medical and other health details plus all other personal information (i.e.financial information, names of relatives).

Application Of Right Of Access

The *FOI Act 1982* will continue to give individuals a right of access to health information about themselves held at Seymour District Memorial Hospital. The *HRA 2001* however makes some amendments to the *FOI 1982*.

Changes made to *FOI Act 1982* will apply to information collected after the commencement of the *HRA 2001* (1st July 2002). Information collected prior to *HRA 2001* commencement will follow *FOI Act 1982*.

Changes to *FOI Act 1982* include:

1. New Definitions: 'Health Information' and 'Health Service Commissioner'.
2. Access: New way to access records; view information and have it explained.
3. New Charges: For access to match the way access is given.
4. Refusal Of Access On Grounds Of Risk to Individual; New provision reflecting *HRA 2001*.
5. Access to Conciliation Process: Conciliation process of Health Services Commissioner will be available to a person who believes they have not been given access to their health information in accordance to the *FOI Act 1982*.
6. Time to which to seek review: A person denied of access to health information on the grounds of a serious threat to their life or health will have 70 days in which to seek review of the decision.

Procedure for Providing Access

A system has been developed for providing individuals access to 'health information' about themselves held at Seymour District Memorial Hospital.

1. The person making the request must make a written request to Seymour District Memorial Hospital. No 'Lodgement Fee' may be charged.
2. Access to health information can occur by the way of:
3. Inspection provision of a copy or a summary (if the individual agrees) or an opportunity to view the record accompanied by an explanation by the health service provider.
4. Access to 'Old Records' (before 1st July 2002) may be granted by manner 1 or 2 as outlined above. The Chief Executive Officer must approve access manner 3 outlined above for 'Old Records'.

5. If individual requests for the opportunity to view the record accompanied by an explanation by the health service provider:
 - The individual must be given the date, time and place or
 - The name and address of a suitable health service provider who will be available by arrangement with the individual to explain the health information.
6. The Chief Executive Officer will commence the processing checklist.

Notice: Before giving consent to health information, reasonable steps must to taken to be satisfied about the persons right to it, for this purpose, evidence is required such as:

- The person's identity; and
- If an individual has authorised SDMH to provide access to that person, the authority of the individual; and
- If the person seeking access is an authorised representative of the individual or the legal representative of a deceased individual, the authority of that person. The Chief Executive Officer will advise all person/s or next of kin (if deceased) associated with the health information to provide their consent through a FOI request form.
NOTE: if the person/s consider their personal privacy is at risk he/she has the right to advice VCAT (VCAT are located at 55 King Street, Melbourne 3000. Telephone: 03 96289700), within 21 days of receipt of advice of their intention to intervene in the release of the requested documents.
- All health information requests will be referred by the Chief Executive Officer to the Director of Medical Services.

7. An acknowledgment receipt form for the FOI request will be given or sent to the applicant.

Deadlines for response to Access:

- After receiving a request, the applicant must receive a decision within 45 days. The Chief Executive Officer will provide applicant with a decision form for information to be released or denied.
- Decisions in response to FOI requests for amendment to documents must be made and despatched within 30 calendar days from the date of receipt of the applicant's request.
- Decisions in response to FOI requests for internal reviews must be made and dispatched within 14 calendar days from receipt of request.
- Orders made by the Victorian Civil Administrative Tribunal (VCAT) must be made and dispatched within the time limit specified by VCAT.

8. Limits of Access

Access must not be granted where:

- Where it is believed on reasonable grounds that granting access would pose a serious threat to the life or health of the person making the request or any other person or
- The information was given in confidence by another person such as a friend or relative, unless the person consents.

Access may be refused where:

- This would have an unreasonable impact on the privacy of others;
- Information relates to legal proceedings and the information would not be discoverable or is subject to legal professional privilege;
- Denying access is required or authorized by law; or
- Granting access would prejudice law enforcement by a law enforcement agency.

9. If access is refused, the Chief Executive Officer can offer the individual options within their refusal notice:
- To discuss the health information with the individual.
 - To arrange for a specified health service provider to discuss the health information with the individual.
 - To nominate a health service provider to assess grounds of refusal
- If the individual gives SDMH a written notice nominating a health service provider: The period for giving a written notice includes:
- The period of 21 days after receiving the notice of refusal.
 - SDMH may object to the nominated health service provider and within 14 days after receiving notification, must give a written notice to the individual stating: the grounds of the objection and suggesting the class of health service providers from which a health service provider can be nominated.

10. Deadlines for seeking Review:

A person denied access to health information on the grounds if a serious threat to their life or health would have 70 days in which to seek review of the decision.

11. Access to Conciliation Process

Conciliation process of Health Service Commissioner will be available to a person who believes they have not been given access to their health information in accordance with the FOI Act.

12. Access Approved and Fees for Granting Access

Where access is approved, the applicant will be advised of the approval and the charge to be levied and the date on which access to the information they requested is available.

NOTE: If financial hardship is acknowledged, a waiver or reduction in the fee costs can be requested.

Fees include:

- Inspecting health information with an opportunity to take notes, or viewing health information with no explanation of contents:
 - \$5 per quarter hour, or part thereof, in respect of supervision of the inspection.
 - Up to \$20 for costs incurred in assessing and collating the information.
 - A reasonable cost in obtaining any equipment needed to inspect or view the material.
 - Up to \$10 for retrieval costs if the information is held somewhere other than the record-holder's normal place of business.
 - Viewing health information with an of explanation the contents:
 - A fee not exceeding the person's usual consultation fee.
 - Receiving a copy of the information
 - Receiving an accurate summary of health information
13. Upon receipt of the access and copying charges, documentation collated will be released either to be sighted by the person making the request or to be given to the person making the request or it will be posted by registered Mail. (The applicant is responsible for costs incurred).
- The processing checklist is completed.

14. Statistical Returns to be completed

- Annual Return – Department of Justice, Victoria
- An annual statistical report is completed on notification from the Department. A copy is retained on file.
- The Freedom of Information Officer will consult as necessary and send relevant details to AON Risk Services Australia Limited.

Procedure for an Informal Access

Access can be provided informally provided the information sought is:

- The person's own &
- Small Volume (e.g. <15 pages) &
- Easy to find and retrieve and
- Not mixed with exempt information i.e would be exempt under *FOI act 1982* or would be exempt under privacy law

For Example:

- Other people's information; or
- Risk to health or life if disclosed; or
- Law enforcement investigation; or
- Protected under other laws (Psych Information under Mental Health Act);
- Serious threat to life or health; or
- Others' privacy impacted; or
- Current legal proceedings between individual and agency, and privileged in those involved; or
- Current negotiations between individual and agency, and unreasonable disadvantage; or
- Access prohibited by law, or non-disclosure is required or authorized by law; or
- Prejudice investigation of unlawful activity; or law enforcement security function; or
- Unreasonable repeated request for access previously provided or denied to the applicant.