



SEYMOUR DISTRICT MEMORIAL HOSPITAL

General Policy Manual  
Section: Administration

Adopted: 12<sup>th</sup> April 2006 at Executive Meeting

Approved By:.....(Date).....

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## **Privacy Policy (Information Privacy Act 2000)**

### ***Background***

The Information privacy Act was created in 2000 and came into effect on 1<sup>st</sup> September 2001. An independent Statutory Officer (Victorian Privacy Commissioner heads the Privacy Victoria Office and reports to the Victorian Parliament through the Attorney General.

Privacy Victoria regulated the way Victorian Government agencies and local councils collect and handle personal information.

### ***Aims of the Information Act***

To balance the public interest in the free flow of information with the public interest in respecting privacy and protecting personal information in the public sector.

To promote the responsible and transparent handling of personal information in the public sector and to promote awareness of these practices.

### ***Functions and Powers***

The Privacy Commissioner's wide range of functions include:

**Promote an understanding and acceptance** of ten Information privacy principles (IPP's) and their objects;

**Educate** people in the public sector and the wider community about information privacy;

**Receive complaints**, conduct investigations and facilitate conciliation relating to alleged breached of privacy by public sector organisations;

**Advise organisations** on developing codes of practice;

**Advise government** on legislation and policies;

**Monitor developments** in data processing and computer technology;

Assess and approve **codes of practice** submitted by public sector agencies.

### ***Privacy and Personal Information***

Privacy has several dimensions, including privacy of the body, privacy of the home, protection from surveillance or eavesdropping, and information privacy. While the Privacy Commissioner can comment on any matter affecting privacy, the powers and remedies in the Information Privacy Act concentrate on privacy of personal information.

Basically, 'personal information' means recorded information or opinion, whether true or not, about a readily identifiable individual.

### ***Information Privacy Principles***

The ten IPPs are the practical core of the Information Privacy Act. With limited exemptions, all Victorian government agencies, statutory bodies and local councils must comply with the Information Privacy Principles.

This is a short summary of the IPP's:

1. **Collection** Collect only personal information that is necessary for performance of functions. Advise individuals that they can gain access to personal information.
2. **Use and Disclosure** Use and disclose personal information that is necessary for performance of functions. Advise individuals that they can gain access to personal information.
3. **Data quality** Make sure personal information is accurate, complete and up to date.
4. **Data security** Take reasonable steps to protect personal information from misuse, loss, unauthorised access, modification or disclosure.
5. **Openness** Document clearly expressed policies on management of personal information and provides the policies to anyone who asks.
6. **Access and correction** Individuals have a right to seek access to their personal information and make corrections. Access and correction will be handled mostly under the Victorian Freedom of Information Act.
7. **Unique identifiers** a unique identifier is usually a number assigned to an individual in order to identify the person for the purposes of an organisation's operations. Tax File Numbers and Driver's Licence Numbers are examples. Unique identifiers can facilitate data matching. Data matching can diminish privacy. IPP 7 limits the adoption and sharing of unique identifiers.
8. **Anonymity** Give individuals the option of not identifying themselves when entering transactions with organisation, if that would be lawful and feasible.
9. **Transborder data flows** Basically, if your personal information travels, your privacy protection should travel with it. Transfer of personal information outside Victoria is restricted. Personal information may be transferred only if the recipient protects privacy under standards similar to Victoria's IPPs.
10. **Sensitive Information** The law restricts collection of sensitive information like an individual's racial or ethnic origin, political views, religious beliefs, sexual preferences, membership of groups or criminal record

### ***Who else protects privacy?***

Privacy of health information in Victoria is protected by the Health Records Act and the **Health Services Commissioner** from 1 March 2002.

Personal information handled by the Federal Government agencies such as the Tax Office and Centrelink is covered by the national Privacy Act and the **Federal Privacy Commissioner**. From 21 December 2001, parts of the private sector also have to comply with the national Privacy Act.

### ***Codes of Practice***

In Victoria the Information Privacy Act allows for government agencies and local councils to develop code of practices tailored directly to their work. Any code of practice must be at least as stringent as the IPPs and be approved the Privacy Commissioner and the Minister.

The Privacy Commissioner must keep a register of approved codes and anyone may inspect it.

### ***Application of Policy***

Seymour District Memorial Hospital (SDMH) is committed to protecting your privacy. We are required by law to protect personal and confidential information such as information relating to your health and other personal details. We comply with all Victorian legislation relating to confidentiality and privacy, including, where relevant, the *Health Services Act 1988 (Vic)*, and the *Health Records Act 2001 (Vic)*.

This statement sets out policies for the management of health information.

- We cannot use or disclose information of a personal nature, except to the extent that this is required, authorised or permitted under law. All our staff are required to be trained and understand their obligations under the laws relating to maintaining your privacy.
- We will only collect health information that is necessary for us to perform our functions. We will always try to do so in a fair, lawful and non intrusive way. Wherever possible, we will collect information directly from you rather than from third parties. We will do our best to tell you if we collect information about you from a third party.
- When we collect information from you we will tell you why we are collecting it, any law that requires it to be collected, the organisations or type of organisations to whom we usually would disclose it and the consequences for you if the information is not provided. We try to set this information out in any form in which we ask for health information to be provided.
- Generally, we collect and use your information for the purpose of providing care and treatment to you and for purposes directly related to providing such care and treatment. We may disclose your information to other health care providers for the purpose of providing further treatment to you. We may also use your information for other purposes which are permitted under the privacy laws. Examples of when we are allowed to use or disclose information about you include: to a court in compliance with a summons or court order or where there is a serious and imminent threat to an individual's life, health, safety or welfare or a serious threat to public health, safety or welfare. Aside from where the law specifically allows us to use or disclose health information, we do not use or disclose such information for purposes which are unrelated to the purposes for which we collected the information, without your consent.
- We do everything we can to make sure that the information we hold about you is accurate, complete and up to date. We are required under the *Public Records Act* to hold some records for extended periods. We will not keep information longer than we need to. From time to time we conduct audits of our records and databases to ensure that the information we hold is accurate and up to date.
- Access to our record keeping and computer systems is controlled and monitored. Our staff and authorised external users only have access to systems that their duties require. We have comprehensive auditing procedures to prevent and detect unauthorised access and fraud. Our physical or paper records are securely stored and can be accessed only by authorised personnel. Our computer systems uniquely identify individual users to ensure that access is appropriately authorised. All transactions involving information of a personal nature that can be audited are traceable to an individual SDMH staff member.

- Any individual or organisation (such as an outside service contractor), who is seeking access to health information held by SDMH is required to sign a confidentiality agreement. When entering into an agreement, the recipient agrees that the information will only be used and disclosed in accordance with the terms and conditions outlined in the agreement. However, if you authorise us in writing to release the health information to another individual or organisation, then a confidentiality agreement is not required.
- If you ask us, we will give you access to information we hold about you. However, there are some exceptions to this. For example, we do not have to give you access to health information we hold about you where doing so would unreasonably disclose information relating to others or where the information would otherwise be exempt from disclosure by law.
- We may from time to time transfer health information about you to organisations outside Victoria for the purpose of the provision of care or treatment to you. We will only do this where you consent, where we believe that the recipient organisation is subject to binding privacy obligations that are substantially similar to the ones under which we operate, or where it is in your interests for us to do so (and it is impracticable to obtain your consent, and if we were able to ask, you would be likely to give consent).
- We ensure that any suspected infringements of privacy are thoroughly investigated. We have implemented fraud prevention strategies to identify procedural and systems weaknesses and continually review these strategies. Disciplinary action is taken in cases where investigations or suspected infringements of privacy are proven.

If you:

- want to have access to health information we hold about you;
- Believe information we hold about you is inaccurate and would like to request that it be amended;
- Want to know more about the type of information we hold, for what purposes and how we deal with that information; or
- Have concerns that we may have infringed your privacy rights,

you should contact the Chief Executive Officer.

Access to view or obtain copies of relevant documentation is in accordance with the Freedom of Information Act, 1982 and the Health Records Act, 2001.

### ***Complaints***

Agencies have one year to ensure they are compliant with the Information Privacy Principle or have an approved code of practice. From 1 September 2002, an individual can complain and might re-direct them to the ombudsman or Health Service Commissioner or Federal Privacy Commissioner.

Where conciliation is not reasonably possible, or is tried but fails, the complaints may go to the Victorian Civil and Administrative Appeals Tribunal (VCAT). If VCAT upholds a complaint, potential remedies include orders to correct information, restraint orders, reimbursement of expenses and compensation orders of up to \$100,000.

A serious or flagrant contravention of an IPP or code of practice by a Victorian public sector organisation may result in the Privacy Commissioner issuing a compliance notice.

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Reference Sources: Protecting Information privacy – Office of the Victorian privacy Commissioner March 2002.