



Disclosure Of Personal Health Information (To Patient Or Representative) Procedure

Procedure Number
CHC-PHI-0006

Version Nos:
7

1. Purpose

This Procedure outlines the process to be followed when disclosing personal health information to the patient to whom the information relates, or their representative.

2. Application

This Procedure is to be followed by all staff throughout West Coast District Health Board (WCDHB).

3. Definitions

For the purposes of this Procedure:

Representative is taken to mean the following:

- when an individual has died – it is the person in charge of their estate;
- where an individual has authorised someone to act on their behalf;
- when an individual is under the age of 16 years – it is their parent or guardian;
- when an individual is unable to give their consent or exercise their rights – it is someone who seems to be acting lawfully on the individual's behalf.

Personal Health Information (PHI) is taken to mean:

- information about the health of an individual;
- information about the disabilities of an individual;
- information about any health or disability services that are being or have been provided by CHC to an individual;
- information derived from the testing or examination of any body part or bodily substance of an individual;
- information provided by an individual in relation to the donation by that individual of any body part or bodily substance;
- information about an individual which is collected before or in the course of, and incidental to the provision of any health or disability service to the individual.

4. Responsibilities

For the purposes of this Procedure:

the **Privacy Officer** is responsible for encouraging compliance by CHC staff with the requirements of this Procedure, and for providing advice and information to staff relating to the releasing of personal health information (PHI) to the patient to whom the information relates, or their representative.

Medical Records Staff are responsible for releasing PHI to the patient to whom the information relates, or their representative, in accordance with the requirements of this Procedure.

Clinical Staff are responsible for assisting Medical Records Staff in determining the appropriateness of releasing PHI to the patient to whom the information relates, or their duly authorised representative.

Nursing Staff are responsible for assisting Inpatients to access their PHI.



5. Resources Required

This Procedure requires:

- i) WCDHB Guide To Managing Personal Health Information
- ii) WCDHB Request For The Release Of Personal Health Information Form
- iii) Template letters Approving Requests To Access Personal Health Information Held By National Archives

6. Process

1.00 Introduction

- 1.01 WCDHB has the legal responsibility to ensure that a patient's privacy is protected by taking all reasonable steps to prevent the unauthorised disclosure of PHI.
- 1.02 The physical medical record that contains the PHI remains the property of WCDHB, while the PHI itself belongs to the individual (or their representative) to whom the information relates.
- 1.03 Medical Records staff/Privacy Officer can assist clinical staff in determining the appropriateness of releasing PHI to the patient to whom the information relates, or their representative.

2.00 Releasing Information To Patients Not Currently Admitted To A Ward

- 2.01 Individuals (who are **NOT** currently admitted to a Ward) who wish to be provided with copies of to their PHI must complete a WCDHB Request For The Release Of Personal Health Information Form, and provide verification of identification, such as:
- i) community services card;
 - ii) drivers license;
 - iii) bank card;
 - iv) or other suitable forms of identification;
- or be known personally by the Medical Records staff/Clinical Staff.
- 2.05 Representatives must have documented authorisation from the patient that indicates the patient has agreed to the representative having access to their PHI, and the representative must also provide some form of verification of their identification (as per Section 1.04) before the PHI will be released to them.
- 2.06 Medical Records staff/Clinical Staff are required to take a photocopy of the verification of identification and attach it to the completed WCDHB Request For The Release Of Personal Health Information Form, which is to be filed in the patient's medical record.
- 2.07 The request for release of PHI is to be processed within 20 working days. However, if the request is for a large quantity of information, or there is a need for consultations to occur before a decision on the request can be made, an extension can be made. Where this occurs, the requester is to be informed in writing of this and:
- i) the period of the extension; and
 - ii) the reason for the extension; and



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- iii) their right of complaint to the Privacy Commissioner.
- 2.08 The PHI requested is then to be photocopied. Once photocopied it is to be checked by another staff member to ensure that the information copied is correct and in accordance with the request.
- 2.09 Consideration is then required to be given to the possibility of any reason for the withholding the PHI. The only criteria for this are if releasing the information would:
- i) prejudice any laws; or
 - ii) endanger the safety of any person; or
 - iii) involve releasing information about a 3rd person; or
 - iv) prejudice the physical or mental health of the individual.
- 2.10 If none of the withholding grounds (as per Section 2.09) apply then the information must be released.
- 2.11 However, even if the withholding grounds (as per Section 2.09) do apply, then the information may still be released, as Section 22F(2) of the Health Act 1956 permits this to occur where the information is being released to a patient or their representative. (Section 22F(2) states that reliance on the withholding grounds is discretionary - (may) as opposed to mandatory (shall)).
- 2.12 Where necessary, the relevant clinical staff should be consulted to determine if there are any concerns that the likelihood of releasing the information would prejudice the physical or mental health of the requester. For mental health clients this requirement is mandatory.
(NOTE: No Mental Health Phi Is To Be Released Without First Being Authorised By The Current Psychiatrist Or Case Manager).
- 2.13 Any decision to withhold PHI must be recorded on the WCDHB Withholding Of Personal Health Information Form (which is to be forwarded to the Privacy Officer). It is advisable for staff to contact the Privacy Officer to discuss any concerns that they have regarding the withholding of PHI.
- 2.14 Once a decision has been made to release the PHI, it is to be stamped to indicate that it has been released in response to a request from a person entitled to receive it.
- 2.15 If any PHI has been withheld, the requester is to be informed of this in writing, as well as:
- i) the reasons for withholding the information;
 - ii) their right of complaint to the Privacy Commissioner.
- 2.16 A copy of the completed WCDHB Request For The Release Of Personal Health Information Form and a copy of the verification of identification is to be forwarded to the Privacy Officer, who will maintain a record of all processed requests. The original Form is to be filed in the patient's medical record. (See Section 1.06)
- 2.17 The original PHI is to be returned to the appropriate storage facility.
- 2.18 No charging is permitted for the copying of medical records.



3.00 Requests From Individuals Who Are Inpatients

- 3.01 Requests by patients who are currently residing in a ward to view their PHI are first to be cleared with the relevant responsible clinician, to ensure that this would not prejudice the physical or mental health of the requester.
(NO MENTAL HEALTH PHI IS TO BE RELEASED WITHOUT FIRST BEING AUTHORISED BY THE CURRENT PSYCHIATRIST OR CASE MANAGER).
- 3.02 Consideration is then to be given to any of the withholding grounds (see Section 2.08).
- 3.03 Nursing/medical staff are then to provide the patient/representative access to their PHI, and are to offer to provide any explanation or interpretation that the patient/representative may require.
- 3.04 Nursing/medical staff are to record all such requests by patients/representatives in the patient's medical record, and all actions taken.
- 3.05 Where the patient requires a copy of their PHI, then this is to be provided in accordance with Sections 2.06 to 2.18 of this Procedure.

4.00 Requests For PHI That Is Held By The National Archives

- 4.01 Where a request for PHI by a patient or their representative has been received, considered and approved, and the PHI has previously been transferred to the National Archives (under the Archives Act 1956) a letter granting the patient or their representative access to the PHI has to be sent to the patient or their representative and to the National Archives. This is undertaken by the Privacy Officer.

7. Precautions And Considerations

- ➔ The identity of a requester is to be checked before any PHI is released.
- ➔ Requests for PHI are to be processed within 20 working days
- ➔ Consideration is to be given to withholding any PHI if any of the withholding criteria applies

8. References

Health Information Privacy Code 1994

On The Record – A Practical Guide To Health Information Privacy



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9. Related Documents

- WCDHB Guide To Managing Personal Health Information
- WCDHB Access By Chaplains/Clergy/Church Visitors To Personal Health Information Procedure
- WCDHB Collation Of Personal Health Information Procedure
- WCDHB Disclosure Of Personal Health Information (Of Deceased Patient) Procedure
- WCDHB Disclosure Of Personal Health Information (To Agencies) Procedure
- WCDHB Disclosure Of Personal Health Information (To Health Provider) Procedure
- WCDHB Disclosure Of Personal Health Information (To The Media) Procedure
- WCDHB Inquiries By Family/General Public For Personal Health Information Procedure
- WCDHB Official Information Request Procedure
- WCDHB Requesting Personal Health Information From Another Health Provider Procedure
- WCDHB Sending Personal Health Information By Fax and Email Procedure
- WCDHB Staff Access To Personal Health Information Procedure
- WCDHB Storage Of Personal Health Information Procedure

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