

ORGANISATIONAL POLICY:

HEALTH INFORMATION PRIVACY

AUTHORITATIVE SOURCE:

The Privacy Act 1993 and the Health Information Privacy Code 1994.

AUTHOR:

Communications Manager/Privacy Officer

PURPOSE:

To set out Hauora Tairāwhiti requirements for the management of all personal information received or generated by Hauora Tairāwhiti. This policy applies to Hauora Tairāwhiti employees, Board members and any other person or organisation dealing with personal information on behalf of Hauora Tairāwhiti, such as volunteers, students and contractors.

DEFINITION:

Personal information is all health information relating to identifiable individuals. It does not apply to anonymous or aggregated statistical information where individuals cannot be identified.

POLICY STATEMENTS:

Hauora Tairāwhiti must manage all personal information it receives or generates in accordance with:

- The Privacy Act 1993
- The Health Information Privacy Code 1994
- Professional codes of ethics and conduct
- The Official Information Act 1982
- The Public Records Act 2005

This includes the management of and:

- Collection
- Storage
- Access
- Correction
- Accuracy
- Retention and
- Disposal

of personal information.

Failure to comply with this policy and its appendices will be managed in accordance with the Hauora Tairāwhiti Code of Behaviour.

In most instances the Privacy Act and the Health Information Privacy Code are subordinate to other legislation. In relation to health information, the Health Information Privacy Code co-exists with ethical obligations. Neither regime overrides the other.

The Hauora Tairāwhiti Information Privacy Policy should be used alongside the above documents, the Official Information Act and other resource materials available from the Office of the Privacy Commissioner. See the Commissioner's website at www.privacy.org.nz

Actions for breaches of the Privacy Act and the Health Information Privacy Code will normally be taken against the organisation involved, although personal liability is possible. All persons to whom this policy applies have a responsibility to comply with this Policy and its appendices.

RULE 1: PURPOSE OF COLLECTION OF HEALTH INFORMATION

(or 'Only get it if you really need it'.)

Hauora Tairāwhiti staff must ensure health information is collected for lawful purpose connected with a function or activity of a health agency and that the collection of information is necessary for that purpose.

RULE 2: SOURCE OF HEALTH INFORMATION

(or "Get it straight from the people concerned".)

Hauora Tairāwhiti staff must not give the providers of personal information a blanket undertaking that the information collected will not be disclosed. There are a number of reasons under the Health Information Privacy Code and other parts of the law that require Hauora Tairāwhiti in certain circumstances to disclose personal information. There are also a number of situations in which Hauora Tairāwhiti will have a duty or responsibility to volunteer a disclosure.

RULE 3: COLLECTION OF HEALTH INFORMATION FROM THE INDIVIDUAL

(or: 'Tell them what you're going to do with the information'.)

Rule 3 requires that reasonable steps be taken to inform the individual about what you will do with the information they provide. Reasonable steps should be taken to overcome barriers to understanding which may exist i.e. culture, language etc.

RULE 4: MANNER OF COLLECTION OF HEALTH INFORMATION

(or 'Be nice when you're getting it'.)

Health information must not be collected by unlawful means or by means that are unfair or intrude to an unreasonable extent upon the personal affairs of the individual concerned.

RULE 5: STORAGE AND SECURITY OF HEALTH INFORMATION

(or 'Take care of it once you've got it'.)

Storage and security relates to physical, electronic and operational security.

Original health information documents are valuable legal documents and are the property of Hauora Tairāwhiti. Physical files must not be sent outside the organisation unless there is no other reasonable alternative. Original records must be released when:

- Required by a Police search warrant
- The situation requires the transfer of the clinical record as a matter of urgency and there is no reasonable means of obtaining a copy in the time available.

Whenever an original is released outside the organisation a copy must be retained. If that is not practical, a copy must be obtained as soon as possible and the person releasing the record, or their delegate, must take responsibility for ensuring that the return occurs.

Health information should not be left unattended in public areas.

Care must be taken not to display health information on the outside of letters and parcels. All Hauora Tairāwhiti staff or contractors transporting clinical records must ensure the record is in a bag, envelope or receptacle, thus preventing personal information (including the patient's name) from being seen. The current location of clinical records must be recorded on the iPMS tracking system or an alternative system if this is not available.

Care must also be taken with computer screens. All staff should log off when they leave a computer. All computers should have a passworded screensaver.

Care must also be taken with information in areas such as reception or waiting rooms.

Electronic transmission of health information

In general, electronic transmission refers to the use of email or fax.

The use of fax for transmitting health information

When faxes are sent outside the organisation a fax cover sheet should be used:

- Stating the name of the intended recipient
- Marked "confidential"
- All external faxes must have the Hauora Tairāwhiti confidentiality and privacy disclaimer attached. *"This message together with any attachments is confidential. If you are not the intended recipient: Do not copy, disclose or use the contents in any way; and let me know by return fax/email immediately and then destroy this message. Hauora Tairāwhiti is not responsible for any changes made to this message and/or any attachment after sending."*

Whenever Hauora Tairāwhiti staff intend to fax health information they must ensure that the correct fax number or is used.

The following procedure must apply:

- Check the number of the recipient
- After dialling check the number shown on the fax machine is correct before sending.
- Where practicable telephone prior to sending so that the recipient can advise if not received or telephone after sending to ensure fax has been received.
- Ensure that commonly used fax numbers are pre-programmed into the fax machine whenever possible.

The use of email for transmitting health information

The use of email for the transfer of identifiable health information requires special consideration as email to organisations outside of Hauora Tairāwhiti is not secure. In cases where email is to be used it is preferable for the patient to be informed that this will be occurring because email poses special problems in privacy. For example, use of email to transmit health information may result in the information being stored on several hard drives, not all of which may be secure from unauthorised access. There is also a risk of interception during transmission as email commonly passes through a number of computers on the way to its final destination.

Whenever email is to be used outside the organisation:

- Email addresses must be included in the Contacts List.
- For new email addresses a test email should be sent before sending health information.
- All external emails must have the Hauora Tairāwhiti confidentiality and privacy disclaimer attached. *“Confidentiality: This message is for the named person/s only. It may contain confidential, proprietary or legally privileged information. No confidentiality or privilege is waived or lost by any erroneous transmission. If you receive this message in error, please delete it and all copies of it from your system, destroy any hard copies and notify the sender. You must not, directly or indirectly, use, disclose, distribute or copy any part of this message if you are not the intended recipient or if you do not have the sender’s permission. Any views expressed in this message are those of the sender except where specifically stated otherwise and the sender is authorised to state them to be the views of any such entity. The sender does not represent, warrant or guarantee that the integrity of this communication has been maintained nor that the communication is free of errors, virus or interference.”*
- NBL: This email disclaimer is added automatically for emails sent from Hauora Tairāwhiti email addresses to email addresses outside the organisation.

RULE 6: ACCESS TO PERSONAL HEALTH INFORMATION

(or ‘They can see it if they want to’.)

People have the right to request access to personal information. The Act provides for up to 20 working days for requests to be considered.

There are no requirements for how requests for health information are made. It is preferable that requests are in writing where possible and on the request for access to personal information form in Appendix A. When a requestor is unwilling or unable to make a written request, Hauora Tairāwhiti staff must offer the requester reasonable assistance with making the request including compliance with identification requirements. As a minimum, Hauora Tairāwhiti staff should make their own record of the request and release. This should be filed in the clinical record.

Before allowing access to health information Hauora Tairāwhiti staff must have reasonable evidence that the person making the request is who they say they are. If the individual making the request is an inpatient, is attending a clinic or is being seen in the community, Hauora Tairāwhiti staff may write on the request that they have personally identified the requestor. If a person making the request cannot be identified in this manner then he or she must provide verification of identity. The preferred form is photo identification such as a driver’s license or passport.

Section 40 of the Privacy Act provides that where a request has been made for access to personal information by the individual concerned, Hauora Tairāwhiti must, as soon as reasonably practical, and in any case no later than 20 working days after the day on which the request was received respond to the requestor.

If you are unsure on whether or not to grant a request, you should contact your manager/team leader in the first instance. They may choose to refer the request to the Privacy Officer or Chief Executive to be actioned.

Hauora Tairāwhiti staff **must not** access personal records of family and friends or other persons they have a non-work related interest in simply because they have the ability to do so. Failure to adhere to this rule will be treated seriously and in accordance with the Hauora Tairāwhiti Code of Behaviour.

Access rights of children

All individuals, including children, have the right of access to their own health information. When a child makes a request it should be dealt with in accordance with Rule 6. Access may be refused in the case of an individual under the age of 16 where disclosure of the information is considered to be contrary to his or her interests. When a parent/guardian makes a request for children's notes they should be vetted by a clinician, manager/team leader or the Privacy Officer to ensure any information that may be contrary to the child's interest is not being disclosed.

RULE 7: CORRECTION OF HEALTH INFORMATION

(or 'They can correct it if it's wrong'.)

People have a right to request correction of their health information. Correction may involve altering personal information by way of amending or correcting, deleting or adding information. If Hauora Tairāwhiti decides not to make the change, the person requesting it may make a "Statement of correction sought, but not made". This must be affixed to the patient records. Hauora Tairāwhiti staff have an obligation to take reasonable steps to ensure that the information they propose to use is accurate, regardless of whether a correction request has been made.

RULE 8: ACCURACY OF HEALTH INFORMATION TO BE CHECKED BEFORE USE

(or 'Make sure it's right before you use it'.)

Hauora Tairāwhiti must not use information without taking such steps to ensure that the information is accurate, up to date, complete, relevant, and not misleading.

RULE 9: RETENTION OF HEALTH INFORMATION

(or 'Get rid of it once you're done with it'.)

Hauora Tairāwhiti retains health information for 10 years following the death of an adult and for 20 years after the death of a child. See Document Control and Archives Policies. Once the relevant time limit is met, the records become available for collection by the deceased's next of kin or executor of their estate.

RULE 10: LIMITS ON USE OF HEALTH INFORMATION

(or 'Use it for the purpose you got it'.)

This rule limits the uses to which health information can be used. Its focus is on purpose. The basic rule is that information obtained for one purpose cannot be used for any other purpose unless an exception applies. However, if that information was originally obtained for the facilitation of a patient's care then Hauora Tairāwhiti employees can share it with other providers along the chain of care, unless there are reasons (or legislation) that prevent this.

RULE 11: LIMITS ON DISCLOSURE OF HEALTH INFORMATION

(or 'Only disclose if you've got a good reason'.)

POLICE

When Police make a request for information they must do so in writing on the Police request form (see Appendix B). Hauora Tairāwhiti has discretion whether to disclose the requested information, unless a search warrant is produced, in which case disclosure is mandatory.

If the Police produce a warrant and the Hauora Tairāwhiti staff member is unsure what to do then they must advise the officer that they are not refusing to comply with

the warrant but that they want to refer the request. The Duty Manager or Privacy Officer should be contacted immediately.

OTHER STATUTORY PROVISIONS

There are a number of other statutory provisions that authorise or require health information to be made available to specific agencies.

There are also a number of other statutory provisions that prohibit or restrict disclosure of health information.

If you are unsure, please refer the request to your Manager/Team Leader or the Privacy Officer.

RULE 12: UNIQUE IDENTIFIERS

(or 'Be careful with unique identifiers')

A health agency must not assign a unique identifier to an individual unless the assignment of that identifier is necessary to enable the health agency to carry out any one or more of its functions efficiently. This rule restricts the circumstances in which unique identifiers may be assigned and restricts the assigning of a unique identifier assigned by another agency. In New Zealand, the **National Health Index** is the mechanism for uniquely identifying every health care user.

RELATED PROCEDURES:

Hauora Tairāwhiti's Code of Behaviour

Hauora Tairāwhiti's Information Systems Acceptable Use Policy

Hauora Tairāwhiti's Policy on Public Statements

Hauora Tairāwhiti Media Policy

Hauora Tairāwhiti Email Usage Policy

Hauora Tairāwhiti Document and Archives Policy

OUTCOME STANDARDS:

All health information is managed in accordance with relevant legislation.

EVALUATION METHOD:

Complaints made

Authorised By (Chief Executive)**Date of Approval: February 2018****Next Review Date: February 2021**

Appendix A

Clinical Records Department

Gisborne Hospital
421 Ormond Road
Gisborne 4010

Private Bag 7001
Gisborne 4040

Ph 06 869 0500 ext 8196

REQUEST FOR ACCESS TO PERSONAL INFORMATION

Surname / Family Name:

(Name on Records(s) to release)

Full Christian Name(s) / First Name(s):

Date of Birth (DOB):

NHI Number:

Full Residential Address or
Full Postal Address:

Telephone Number:

Requestor's Name:

(if different from above)

Full Residential Address:

(if different from above)

Please indicate the Service you require information from and the date(s) applicable.

If you require a complete copy for that Service, please indicate this.

General Inpatient / Outpatient

Maternity and Child Health

Office Use Only:

Identification Sighted By:

Form of Identification:

Notified of Release:

Team Leader/Manager

Consultant

Date

Approved for Release By:

Team Leader/Manager

Consultant

Date

PLEASE COMPLETE DETAILS OVER PAGE

Advice letter - CRO Request Personal Info Access

AUTHORISED CONSENT TO ACCESS PERSONAL INFORMATION
All sections to be completed. Please read the Requestor's Checklist before posting.

CONSENT BY INDIVIDUAL TO ACCESS OWN INFORMATION

Signature: _____ Date: _____

CONSENT BY INDIVIDUAL'S PARENT/GUARDIAN TO ACCESS INFORMATION

Signature: _____ Date: _____
(Please read statement below before signing)

Relationship to Individual: _____

IMPORTANT: *In signing, I certify there is no **Protection Order** issued in my name, by the Courts, restricting access, to the individuals named in this consent form, to release personal information.*

CONSENT BY INDIVIDUAL'S REPRESENTATIVE TO ACCESS INFORMATION

Signature: _____ Date: _____

Relationship to Individual: _____

NOTE: *Proof will be required in the form of an 'Enduring Power of Attorney / Welfare Guardian' or if individual is deceased, a copy of their Will stating person signing is the Executor.
In lieu of no Will, 'Letters of Administration' will be required.*

AUTHORISATION TO DISCLOSE PERSONAL INFORMATION TO A THIRD PARTY

I, _____ Signature: _____

Authorise that access be granted to the below named individual to view and/or photocopy the named individual's clinical record(s) indicated over the page.

Name of person released to: _____

The relevant consent box above must also be signed before disclosure to third party is actioned.

REQUESTOR'S CHECKLIST

- Please ensure you have signed the appropriate section(s) above and enclosed copies of relevant identification.
- When signing the appropriate section, ensure that relevant copies of the 'Enduring Power of Attorney/Welfare Guardian' or the Will or 'Letters of Administration' are enclosed.
- Post completed form**, with relevant copies of identification, to the address over the page.

NOTE: *This form and subsequent information are subject to the provisions of the Privacy Act 1993, the Health Information Privacy Code 1994 and/or the Official Information Act 1982.*

You will receive a reply within 20 working days unless deemed urgent.

Further information is available from the Office of the Privacy Commissioner 0800 803 909 or www.privacy.org.nz

Appendix B:



Date: _____

Privacy Officer
Tairāwhiti Healthcare
Private Bag 7001, Gisborne
Ph: 06 8690500
Fax 06 8690516

Re: _____ DOB: _____
First Name Surname

I request that you provide me with the following information concerning the above named person:

Authorisation is attached _____

It is undesirable, impracticable or impossible to obtain consent or authorisation of the patient, or his/her personal representative, to release the information to the Police because:

Notwithstanding the person's right to have their privacy protected, I believe such right is outweighed by the following considerations which, in the public interest, require you to release the information (identified above) to the Police:

In making this request, I am acting for the purpose of exercising or performing the powers, duties, or functions as an employee of the NZ Police Department. My details are :

Full Name: _____ Reg.No. _____

Rank: _____ Station: _____

I have given the above information trustfully and honestly. I have not withheld any other information which might prejudice Tairāwhiti Healthcare's right (if any) to disclose or refuse to disclose any information, as identified above, to me.

Signature

Date