

# Health Privacy it's my business

Victorians have a new law to protect the privacy of health information.

This law is the *Health Records Act 2001*.

The Health Records Act does two important things:

- it establishes standards called Health Privacy Principles (HPPs) for the collection, handling, and disposal of health information in the public and private sectors;
- it creates a new right of access for Victorians to health information about them, held in the private sector.

*'building on best practice'*

## Conciliating and Resolving Health Privacy Complaints

Complaints about an interference with health privacy can be made to the Health Services Commissioner, Victoria's health ombudsman.



Beth Wilson,  
Victoria's Health Services  
Commissioner

Complaints can only relate to interferences with privacy resulting from the collection, use, disclosure or handling of health information which occur after 1 July 2002.

A complaint might occur because an organisation has not complied with the Health Privacy Principles or because it has not given a patient or client access to health information about them.

The Commissioner's complaints process strongly emphasises conciliation. The Commissioner does have investigation powers under the Health Records Act, and can serve compliance notices for serious breaches. The Victorian Civil and Administrative Tribunal can also make binding orders, but the majority of complaints are expected to be resolved informally.

The Commissioner is responsible for the implementation of the Health Records Act. This includes educating organisations that collect and handle health information about their obligations under the Act, as well as educating Victorians about their rights.

**For more information about the new law, contact the Health Services Commissioner.**

### Health Services Commissioner, Complaints and Information

Telephone: (03) 8601 5200 Fax No.: (03) 8601 5219

Toll Free: 1800 136 066 TTY: 1300 550 275

Email: [hra@dhs.vic.gov.au](mailto:hra@dhs.vic.gov.au) DX 210182

30th Floor, 570 Bourke Street, Melbourne Victoria 3000

Web site: [www.health.vic.gov.au/hsc/](http://www.health.vic.gov.au/hsc/)



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## Health Records Act Health Privacy Principles Right of Access



## Aims of the Health Records Act

- To require the responsible handling of health information in the public and private sectors.
- To balance the public interest in protecting the privacy of health information with the public interest in its legitimate use.
- To enhance people's ability to be informed about their health care or disability services.
- To promote the provision of quality health, disability and aged care services.

## Who does it affect?

### (1) Those who collect or handle health information, including

- **health service providers**, such as hospitals, community health centres, doctors, dentists, psychologists, aged care, palliative care, and disability services; &
- **any other person or organisation which collects or handles health information** such as schools, kindergartens, sporting clubs, insurance companies, employers, fitness centres.

These organisations are required to collect and handle health information according to the standards set by the Act.

### (2) Those who provide health information about themselves to these organisations including patients and clients of health service providers, employees, people with insurance policies, those involved in sporting or fitness activities, etc.

The Act gives people a right to have health information handled in accordance with the standards set by the Act, including giving them a right of access to health information about them held in the private sector.

## Health Privacy Principles (HPPs)

The standards set by the Health Records Act are contained in the eleven HPPs. They apply to:

- personal information (including health information) collected in providing a health, mental health, disability, aged care or palliative care service; and
- health information held by other organisations and are binding.

A contravention of the HPPs is "an interference with the privacy of an individual".

### Here are the HPPs in brief:

- 1. Collection.** Only collect health information if necessary for the performance of a function or activity and with consent (or if it falls within HPP1). Notify individuals about what you do with the information and that they can gain access to it.
- 2. Use & Disclosure.** Only use or disclose health information for the primary purpose for which it was collected or a directly related secondary purpose the person would reasonably expect. Otherwise, you generally need consent.
- 3. Data Quality.** Take reasonable steps to ensure health information you hold is accurate, complete, up-to-date and relevant to the functions you perform.
- 4. Data Security & Retention.** Safeguard the health information you hold against misuse, loss, unauthorised access and modification. Only destroy or delete health information in accordance with HPP 4.

**5. Openness.** Document clearly expressed policies on your management of health information and make this statement available to anyone who asks for it.

**6. Access & Correction.** Individuals have a right to seek access to health information about them held in the private sector, and to correct it if it is inaccurate, incomplete, misleading or not up-to-date.

**7. Identifiers.** Only assign a number to identify a person if the assignment is reasonably necessary to carry out your functions efficiently.

**8. Anonymity.** Give individuals the option of not identifying themselves when entering transactions with organisations where this is lawful and practicable.

**9. Transborder Data Flows.** Only transfer health information outside Victoria if the organisation receiving it is subject to laws substantially similar to the HPPs.

**10. Transfer/closure of the practice of a health service provider.** If you're a health service provider, and your business or practice is being sold, transferred or closed down, without you continuing to provide services, you must give notice of the transfer or closure to past service users.

**11. Making information available to another health service provider.** If you're a health service provider, you must make health information relating to an individual available to another health service provider if requested by the individual.

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