
Request for Access to Personal Health Information

Policy

Patients at WGPN have the right to access their personal health information (medical record) under legislation.

- *Commonwealth Privacy Amendment (Private Sector) Act 2000*
- *Health Records Act 2001 (Victoria.)*

This principle obliges health service providers and other organisations that hold health information about a person to give them access to their health information on request, subject to certain exceptions and the payment of fees (if any).

Public sector organisations continue to be subject to the *Freedom of Information Act 1982*.

Reports by Specialists

This information forms part of the patient's medical record, hence access is permitted under privacy law.

Diagnostic Results

This information forms part of the patient's medical record, hence access is permitted under privacy law.

We respect an individual's privacy and allow access to information via personal viewing in a secure private area. The patient may take notes of the content of their record or may be given a photocopy of the requested information. A GP may explain the contents of the record to the patient if required.

Procedure

A notice is displayed in our waiting room and on our website advising patients and others of their rights of access and of our commitment to privacy legislation compliance. A Patient Information Brochure is also available that provides further details.

Release of information is an issue between the patient and the doctor. Information will only be released according to privacy laws and at doctor's discretion. Requested records are reviewed by the medical practitioner prior to their release and authorisation is obtained.

Request Received

When our patients request access to their medical record and related personal information held at WGPN, we document each request in patient notes within Best Practice and endeavour to assist patients in granting access where possible and according to the privacy legislation.

Exemptions to access will be noted and each patient or legally nominated representative will have their identification checked prior to access being granted.

A patient may make a request verbally at WGPN, via telephone or in writing e.g. fax, email or letter. The request is referred to the patient's doctor. Once the doctor approves the release of information then the Patient Services Officer can provide this information to the patient.

Request by another (not patient)

The patient may authorise another person to be given access, if they have the right e.g. legal guardian, and if they have a signed authority. Under NPP 2 Use & Disclosure, a 'person responsible' for the patient (including a partner, family member, care, guardian or close friend), if that patient is incapable of giving or communicating consent, may apply for and be given access for appropriate care and treatment or for compassionate reasons. Identity validation applies.

The *Privacy Act 1998* defines a 'person responsible' as a parent of the individual, a child or sibling of the individual, who is at least 18 years old, a spouse or de facto spouse, a relative (at least 18 years old) and a member of the household, a guardian or a person exercising an enduring power of attorney granted by the individual that can be exercised for that person's health, a person who has an intimate relationship with the individual or a person nominated by the individual in case of emergency

Children

Where a young person is capable of making their own decisions regarding their privacy, they should be allowed to do so according to Federal Privacy Commissioner's Privacy Guidelines. The doctor could discuss the child's record with their parent. Each case is dealt with subject to the individual's circumstances. A parent will not necessarily have the right to their child's information.

Deceased Persons

A request for access may be allowed for a deceased patient's legal representative if the patient has been deceased for 30 years or less and all other privacy law requirements have been met.

Acknowledge Request

Each request is acknowledged with a letter sent to the patient, confirming request has been received. Send the letter within 14 days or sooner as recommended by the National Privacy Commissioner. Acknowledgment will include a statement concerning charges involved in processing the request.

Fees Charged

Discuss with the individual what information they want access to, and the likely fees, before undertaking their request for access.

Collate & Assess Information

Retrieve patient's hardcopy medical record or arrange for the treating doctor or practice principal to access the computer record. Refer to the patient request to help identify what information is to be given to the patient.

Data may be withheld under privacy legislation NPP6 Access & Correction for the following reasons.

- where access would pose a serious threat to the life or health of any individual
- where the privacy of others may be affected
- if a request is frivolous or vexatious
- if information relates to existing or anticipated legal proceedings
- if access would prejudice negotiations with the individual
- if access would be unlawful
- where denying access is required or authorised by law

Access Denied

Reasons for denied access must be given to the patient in writing. Note these in the patient file. In some cases refusal of access may be in part or full.

If request for access is denied an intermediary may operate as facilitator to provide sufficient access to meet the needs of both the patient and the doctor.

Provide Access

Personal health information may be accessed in the following ways:

- view and inspect information
- view, inspect and talk through contents with the doctor
- take notes
- obtain a copy (can be photocopy or electronic printout from computer)
- information may be faxed to patient
- check Identity of Patient
- ensure a visible form of ID is presented by the person seeking access. E.g. driver's licence, passport, other photo identification.
- does the person have the authority to gain access? Check age, legal guardian documents; is person authorised representative?

If the patient is viewing the data, supervise each viewing so that patient is not disturbed and no data goes missing.

If a copy is to be given to the patient ensure all pages are checked and this is noted in the patient files.

If the doctor is to explain the contents to a patient then ensure an appointment time is made.

Requests to Correct Information

A patient may ask to have their personal health information amended if he/she considers that is not up to date, accurate and complete.

Our practice must try to correct this information. Corrections are attached to the original health record.

Where there is a disagreement about whether the information is indeed correct, our practice attaches a statement to the original record outlining the patients' claims.

Time Frames

Acknowledge request - within 14 days. Complete the request - within 30 days

3rd Party Requests for Access to Medical Records/Health Information

Policy

Requests for 3rd Party access to the medical record should be initiated by either receipt of correspondence from a solicitor or government agency or by the patient completing a Transfer of Patient Records Request (F06) Patient Request for Personal Health Information Form. Where a patient request form or and signed authorisation is not obtained WGPN is not legally obliged to release.

Where requests for access are refused the patient or third party may seek access under relevant privacy laws.

An organisation 'holds' health information if it is in their possession or control. If you have received reports or other health information from another organisation such as a medical specialist, you are required to provide access in the same manner as for the records you create. If the specialist has written 'not to be disclosed to a third party' or 'confidential' on their report, this has no legal effect

in relation to requests for access under the *Health Records Act 2001*. You are also required to provide access to records which have been transferred to you from another health service provider.

Requests for access to the medical record and associated financial details may be received from various 3rd Parties including:

1. Subpoena/court order/coroner/search warrant
2. Relatives/Friends/carers
3. External doctors & Health Care Institutions
4. Police /Solicitors
5. Health Insurance companies/Workers Compensation/Social Welfare agencies
6. Employers
7. Government Agencies
8. Accounts/Debt Collection
9. Students (Medical& Nursing)
10. Research /Quality Assurance Programs
11. Media
12. International
13. Disease registers
14. Telephone Calls

We only transfer or release patient information to a third party once the consent to share information has been signed and in specific cases informed patient consent has may be sought. Where possible de identified information is sent

Our practice team can describe the procedures for timely, authorised and secure transfer of patient health information in relation to valid requests.

Procedure

The WGPN team can describe how we correctly identify our patients using 3 patient identifiers, name, date of birth, address or gender to ascertain we have the correct patient record before entering, actioning or releasing anything from that record.

Patient consent for the transfer of health information to other providers or agencies is obtained on the first visit and retained on file in anticipation of when this may be required.

As a rule no patient information is to be released to a 3rd Party unless the request is made in writing and provides evidence of a signed authority to release the requested information, to either the patient directly or a third party. Where possible de identified data is released.

Written requests should be noted in the patient's medical record and also documented in WGPN's Request Register. Requests should be forwarded to the designated person within WGPN for follow-up.

Requested records are to be reviewed by the treating medical practitioner or principal doctor prior to their release to a third party. Where a report or medical record is documented for release to a third party, having satisfied criteria for release, (including the patients written consent and where appropriate written authorisation from the treating doctor), then WGPN may specify a charge to be incurred by the patient or third party, to meet the cost of time spent preparing the report or photocopying the record.

Section 1.01

WGPN retains a record of all requests for access to medical information including transfers to other medical practitioners.

Where hard copy medical records are sent to patients or 3rd Parties copies are forwarded not original documentation wherever possible. If originals are required copies are made in case of loss.

Security of any health information requested is maintained when transferring requested records and electronic data transmission of patient health information from our practice is in a secure format.

Subpoena, Court Order, Coroner Search Warrant

Note the date of court case and date request received in the medical record. Depending on whether a physical or electronic copy of the record is required follow procedures as described above. Refer also to section 8 "Management of potential Medical defence claims"

On occasions a member of staff is required to accompany the medical record to court or alternatively a secure courier service may be adequate. If the original is to be transported, ensure a copy is made in case of loss of the original during transport. Ensure that the record is returned after review by the court.

Relatives/Friends

A patient may authorise another person to be given access if they have the legal right and a signed authority. See 6.3 Patient Requests for Personal Health Information. See also NPP2 Use & Disclosure.

In 2008 the Australian Law Reform Commission recognised that disclosure of information to 'a person responsible for an individual' can occur within current privacy law. If a situation arises where a carer is seeking access to a patient's health information, practices are encouraged to contact their medical defence organisation for advice before such access is granted.

Individual records are advised for all family members but especially for children whose parents have separated where care must be taken that sensitive demographic information relating to either partner is not recorded on the demographic sheet. Significant court orders relating to custody and guardianship should be recorded as an alert on the children's records.

External Doctors and Health Care Institutions

Direct the query to the patient's doctor and or WGPN principal doctor.

Police/ Solicitors

Police and solicitors must obtain a case specific signed patient consent (or subpoena, court order or search warrant) for release of information. The request is directed to the doctor.

Health Insurance Companies /Workers Compensation/ Social Welfare Agencies

Depending on the specific circumstances information may be need to be provided. It is recommended that these requests are referred to the Doctor.

It is important that organisations tell individuals what could be done with their personal health information and if it is within the reasonable expectation of the patient then personal health information may be disclosed. Doctors may need to discuss such requests with the patient and perhaps their medical defence organisation.

Employers

If the patient has signed consent to release information for a pre-employment questionnaire or similar report then direct the request to the treating doctor.

Government Agencies - Medicare/Dept. Veterans Affairs

Depending on the specific circumstances information may be need to be provided. It is recommended that doctors discuss such issues with the medical defence organisations.

State Registrar of Births, Deaths and Marriages

Death certificates are usually issued by the treating doctor.

Centrelink

There are a large number of Centrelink forms (treating doctor's reports) which are usually completed in conjunction with the patient consultation

Accounts/ Debt Collection

WGPN must maintain privacy of patient's financial accounts. Accounts are not stored or left visible in areas where members of the public have unrestricted access.

Accounts must not contain any clinical information. Invoices and statements should be reviewed prior to forwarding to third parties such as insurance companies or debt collection agencies.

Outstanding account queries or disputes should be directed to WGPN accounts or principal.

Hint: Practices may like define an adequate period of time between the initial account and pursuing aggressive collection.

Students (Medical & Nursing)

WGPN does participate in medical/nursing student education.
WGPN acknowledges that some patients may not wish to have their personal health information accessed for educational purposes. WGPN always advises patients of impending student involvement in practice activities and seeks to obtain patient consent accordingly. WGPN respects the patient's right to privacy.

Media

Please direct all enquiries to Patient Services Manager. Staff must not release any information unless it has been authorised by the Patient Services Manager and patient consent has been obtained.

International

Where patient consent is provided then information may be sent overseas WGPN is under no obligation to supply any patient information upon receipt of an international subpoena.

NPP9 Transborder Data Flows

Disease Registers

This practice submits patient data to various disease specific registers (cervical, breast bowel screening etc) to assist with preventative health management.

Consent is required from the patient with the option of opting in or opting out. Patients are advised of this via a sign in the waiting area and in WGPN information leaflet.

Telephone Calls

Requests for patient information are to be treated with care and no information is to be given out without adherence to the following procedure:

Take the telephone number, name (and address) of the person calling and forward this onto the treating doctor/principal or Patient Services Manager where appropriate,

(RACGP 3rd edition Standards 4.2.1. RACGP 4th edition Standards 4.2.1 & 3.1.4 & 4.2.2.)