

Please note: This Procedure is currently under review by Legal Services as part of a Transalpine approach to policy alignment with the CDHB. If you have any questions regarding this document please contact the Senior Corporate Solicitor in the first instance.

1. Purpose

This Procedure outlines the process to be followed when disclosing personal health information, while maintaining the patient's right to privacy, confidentiality, and to meet the relevant statutory requirements.

2. Application

This Procedure is to be followed by all staff, inclusive of Secondary, Tertiary and General Practice services throughout the West Coast District Health Board (WCDHB).

This Procedure does not apply to:

- Pathology results – these can be provided to the patient without a request to release patient information
- Radiology results – these can be provided to the patient without a request to release patient information
- Dispensing Scrip Record, including Script charges paid by patient
- Print out of hospital visits for travel claims
- Release of personal health information to another health provider directly involved in the individual's care, including other District Health Boards

3. Definitions

For the purposes of this Procedure:

Release of Personal Health Information (PHI) is taken to mean:

- Information provided in both verbal, electronic and / or paper clinical records

Personal Health Information (PHI) is taken to mean:

- Information about the health of an individual/patient
- Information about the disabilities of an individual/patient
- Information about any health or disability services that are being or have been provided by the WCDHB to an individual / patient
- Health information communicated verbally and electronic and paper clinical records

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- Diagnostic images taken by specialist services within the WCDHB e.g. X-rays, diagnostic scans or photographs of pathological specimens
- Information derived from the testing or examination of any body part or bodily substance of an individual/patient
- 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.

An individual's **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; Please use the following link for more information in relation to release of patient information under the Guardianship Procedure – [Guidelines for Informed Consent of Children](#)
- When an individual is unable to give their consent or exercise their rights – it is someone who is seen to be acting lawfully on the individual's behalf.

4. Responsibilities

For the purposes of this Procedure:

Quarantined Files:

- The release of any information from a quarantined file (refer to the WCDHB Serious and Adverse Event Review Procedure) **can only take place after the request has been considered by the Patient Safety Officer, including where the request is by the Police.**

Privacy Officer /Patient Safety Officer/Quality and Patient Safety Manager are responsible for:

- Ensuring compliance by WCDHB staff with the requirements of this Procedure, and for providing advice and information to staff relating to the releasing of personal health information (PHI).

Medical Records Staff and/or Reception Staff are responsible for:

- Confirming identification of individual/patient requesting information for each individual request –
- Photocopying of identified documentation to whom the information relates, or their representative

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- Recording of authority box details on page 5 of the request to Release Patient Information Form (ROPI)
- Recording request details on the electronic register (shared drive medical records ROPI)
- Health Authority Release stamp on photocopy
- Filing of request to release patient information form
- Providing, by post (registered mail/courier) or another agreed mode of communication, the requested material to the person once it has been confirmed that they are authorised to receive the material.
- Provision of the complete clinical record to a statutory agency upon receipt of a written request and after complying with the relevant legislation.

Chaplains / Clergy / Church Visitors

- The Hospital Chaplain, members of the Clergy or Church Visitors are to report to the Reception Desk at each Hospital and request to be provided with a list of those patients who wish to receive a visit. This information is to be provided after Reception staff have correctly identified the Hospital Chaplain members of the Clergy or Church Visitors, and had them complete the relevant sign-in procedure.

Clinical Staff are responsible for:

- The checking and removal of any 3rd party information and/or information that is deemed to be inappropriate for release and /or would be harmful for the patient and / or third parties to receive

Mandatory for Mental Health staff only.

- Where necessary, the relevant clinical staff member 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 requestor
- No mental health PHI is to be released without first being authorised by the current Psychiatrist and /or Case Manager. Even in this situation, the only reasons available to refuse a patient's request to access his or her own PHI are contained in sections 27 to 29 of the Privacy Act 1993 as shown below.

The only reasons available to refuse a patient's request to access his or her own PHI are contained in sections 27 to 29 of the Privacy Act 1993. The key reasons are if releasing the information would:

- i) Prejudice any laws; or¹*
- ii) Endanger the safety of any person; or²*
- iii) Involve releasing information about a 3rd person; or³*
- iv) Prejudice the physical or mental health of the individual.⁴*

¹ Here after will be referenced as sections 27 to 29 of the Privacy Act 1993

² Here after will be referenced as sections 27 to 29 of the Privacy Act 1993

³ Here after will be referenced as sections 27 to 29 of the Privacy Act 1993

⁴ Here after will be referenced as sections 27 to 29 of the Privacy Act 1993

- If none of the withholding grounds apply then the information must be released.

However, even if the withholding grounds do apply, then the information may still be released. For example, 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)).**

5. Resources Required

- WCDHB Request For The Release Of Personal Health Information Form

6. Process

Introduction

- 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.
- 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.

Releasing Information to Patients and/or a third party

- Individuals who wish to be provided with copies of 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/Reception and / or Clinical Staff
- The requested information shall not be released until an accepted form of identity and proof of authorisation has been provided
- Representatives must have documented authorization 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 identified above) before the PHI will be released to them
- Page 2 of the release of patient information form should clearly identify the clinical documentation requested for release
- Medical Records and/or Reception 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 relevant clinical record e.g. RAGP, Mental Health or Ziman House

- 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
 - iii) their right of complaint to the Privacy Commissioner
- 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
- 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)
- Consideration is then required to be given to the possibility of any reason for the withholding the PHI. The only reasons available to refuse a patient's request to access his or her own PHI are contained in sections 27 to 29 of the Privacy Act 1993
- If none of the withholding grounds apply then the information must be released
- However, even if the withholding grounds do apply, then the information may still be released. For example, 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))**
- 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
- 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
- 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
- The release of patient information log must be updated at all stages of the process by the relevant medical records and/or reception staff member
- Where patients have requested access to their personal health information, it may be appropriate for a suitable person to be available to assist in interpreting the information and to answer any questions from the patient

- The WCDHB must ensure that only the patient making the request, or their authorised representative, receives the PHI being sought by the patient. This may involve the patient collecting the information in person and providing proof of identity, or **sending it by registered mail/courier**

Disclosure of Deceased Patient Personal Health Information Procedure:

- An individual's right to privacy of their health information continue following their death with some modification of the privacy rights they had while they were alive
- With recently deceased patients, a registered health professional, or other WCDHB staff member authorised by the relevant General Manager, may disclose the facts relating to the death of the patient to the patients' spouse partner, next of kin, whanau, close relative, principal caregiver, or other person whom in the circumstances it is reasonable to inform. (see WCDHB Immediate Care of Relatives Following Patient Death/Serious Incident)
- If immediate family/whanau members request information regarding the circumstances surrounding the death, it will usually be appropriate for a registered health professional to discuss the circumstances of the death with the immediate family. The registered health professional should satisfy themselves that the request is a genuine one. The registered health professional may wish to refer to the clinical records and may allow family/whanau members to sight these records in the presence of the registered health professional. (see WCDHB Immediate Care of Relatives Following Patient Death/Serious Incident)
- Access to the PHI of a deceased patient is restricted to the deceased patient's:
 - i) Estate executor or
 - ii) Estate administrator or
 - iii) Individual who inherited the deceased person's estate or
 - iv) Another agency that has a lawful reason for requesting the information

Requests From Individuals Who Are Inpatients

- 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 patient

(No mental health PHI is to be released without first being authorised by the current psychiatrist and / or case manager).

- The only reasons available to refuse a patient's request to access his or her own PHI are contained in **sections 27 to 29 of the Privacy Act 1993**
- If none of the withholding grounds apply then the information **must be** released
- However, even if the withholding grounds do apply, then the information may still be released. For example, Section 22F(2) of the Health Act 1956 permits this to occur where the information

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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))

- Nursing/medical staff are 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
- Nursing/medical staff are to record all such requests by patients/representatives in the patient's medical record, and all actions taken

Requests From a Statutory Agency i.e. Police, CYFS and/or ACC

Requests Made By NZ Police

- All requests for information from Police Officers are to be directed to the Medical Records Department, Privacy Officer and / or Patient Safety Officer to handle in accordance with WCDHB's legal obligations
- Before any information is released to the NZ Police, they must provide one of the following types of authorisation:
 - i. A written requests made under Section 22C of the Health Act; or
 - ii. A written request made under the Official Information Act; or
 - iii. Signed authorisation from the patient – if appropriate / applicable; or
 - iv. A search warrant
- All requests pertaining to a quarantined file must be directed through the Patient Safety Officer

Requests Made by Child, Youth and Family Services

- All requests for information from Child, Youth, and Family Services are to be directed to the Medical Records Department, Privacy Officer and / or Patient Safety Officer to handle in accordance with WCDHB's legal obligations
- Before any information is released to Child, Youth and Family Services, they must provide one of the following types of authorisation:
 - i. For children - a written requests made under Section 66 of child, Young Persons and their Families Act; or
 - ii. For adults – a written request made under Section 22C of the Health Act

Requests Made by Accident Compensation Corporation

- All requests for information, including treatment injury, from Accident Compensation Corporation are to be directed to the Medical Records Department, Privacy Officer and / or Patient Safety Officer to handle in accordance with WCDHB's legal obligations
- When a patient completes an application for Accident Compensation Corporation they are requested to sign an authorisation allowing Accident Compensation Corporation to access information about their care for the purpose of the patient's management. Therefore, Accident Compensation Corporation requests for information about the patient's care may be released without WCDHB seeking the patient's separate, express permission

Requests Made by Ministry of Social Development, Housing New Zealand Corporation, Lawyers/Insurance Companies

- All requests for information from any of the above organisations are to be directed to the Quality and Patient Safety Manager, Privacy Officer and / or Patient Safety Officer to handle in accordance with WCDHB's legal obligations

Requests Made by the Coroner and/or the Health and Disability Commissioner/Privacy Commissioner

- All requests for information from the Coroner are to be directed to the Patient Safety Officer and/or the Quality and Patient Safety Manager to handle in accordance with WCDHB's legal obligations

Ministerial Inquiries

- Inquiries for the Minister of Health are to be referred to the General Manager and/or the Quality and Patient Safety Manager

Requests by Professional Bodies

- All requests for information from any Professional Body are to be directed to the relevant WCDHB Professional Advisor:
 - Chief Medical Officer; or
 - Director of Nursing and Midwifery; or
 - Associate Director of Allied Health

Requests From News Media Representative (NMR)

- All requests from a NMR for information, including PHI, are considered requests under the Official Information Act. Although WCDHB must always comply with the Official Information Act 1982, the way in which WCDHB handles these NMR requests will depend on the specific nature and circumstances of the request
- During normal working hours, all requests from a NMR for PHI are to be directed to the relevant General Manager and Senior Communications Adviser. After normal working hours, such requests are to be directed to the After Hours Coordinator
- If a Patient has consented to the release of PHI to a NMR then the following information can be released:
 - Presence of the patient
 - Location of the patient
 - Condition⁵ and progress of the patient

NB: no other⁶ PHI shall be released
- If the Patient has not consented to their release of PHI to a NMR (nominated 3rd party), then no PHI is to be released. The NMR is to be informed that the patient does not wish any details of their condition to be released to the news media

⁵ Condition is not the diagnosis;

⁶ Includes diagnosis

- If a NMR makes a request for PHI about a person who has been a patient of WCDHB, but is not currently admitted to a WCDHB hospital, then the request is to be considered as having been made under the Official Information Act, which requires that in this circumstance, the prior written consent of the patient has to be provided before any information is to be released. This written consent is also to include the specific information that is to be released
- A record of all PHI released to a NMR is to be kept by the relevant General Manager and/or Senior Communications Advisor

Requests for External Audit and Research

- **No records are to be released** for research or audit purposes unless the appropriate authorisation has been received

Requests For PHI That Is Held By The National Archives

- **Where** a request for PHI by a patient 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 requester, and where applicable third party/representative, is to be checked before any PHI is released

The WCDHB has a legal responsibility to ensure that a patient's privacy is protected by taking all reasonable steps to prevent the unauthorized disclosure of PHI

- ➔ Whenever possible the requested PHI **must** be sent by courier

While recognizing that there will be circumstances when PHI is required to be sent by either by fax or email, WCDHB staff members must be mindful of the limitations of these communication systems with regards to protecting the privacy of patients PHI. Confirmation of the fax and/or email address must be achieved prior to sending PHI

- ➔ PHI may only be sent by email after reasonable steps have been taken to confirm the authenticity of the email address provided

PHI sent by fax, must:

- Where possible use pre-programmed fax numbers
- Ensure the correct fax number correlates with the number displayed
- If sent to the wrong fax number, contact the recipient and request that they either return the information in person or vial mail, or destroy the information

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- ➔ If PHI is sent to an incorrect recipient, the WCDHB staff member is required to complete a WCDHB Safety 1st Incident Report and report the incident to the WCDHB Privacy Officer
- ➔ 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
- ➔ Only the names of those patients who have indicated a desire to receive a visit are to be disclosed to the Hospital Chaplain, members of the Clergy or Church Visitor
- ➔ Rights to health information privacy of deceased persons continue after their death with some modification of the privacy rights they had while they were alive
- ➔ Access to the PHI of a deceased person is restricted to their estate executor, administrator or person who inherited their estate
- ➔ A request for access to the PHI of deceased patients is to be processed as per the normal request process

8. References

- ❑ [Health Information Privacy Code 1994](#)
- ❑ [On The Record – A Practical Guide to Health Information Privacy](#)
- ❑ [Privacy Act 1993](#)
- ❑ [Official Information Act \(OIA\) 1982](#)

9. Related Documents

- ❑ [WCDHB Official Information Request Procedure](#)
- ❑ [WCDHB Guidelines for Informed Consent of children](#)
- ❑ [WCDHB Collection, Collation, Correction & Alteration Of Personal Health Information Procedure](#)
- ❑ [WCDHB Staff Access to Personal Health Information Procedure](#)
- ❑ [WCDHB Storage Of Personal Health Information Procedure](#)
- ❑ [WCDHB Immediate Care of Relatives Following Patient Death/Serious Incident](#)
- ❑ [WCDHB Withholding of Personal Health Information Form](#)
- ❑ [WCDHB Serious and Adverse Event Reporting and Review Procedure](#)

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10. Key Words

Access	Disclosure	Inpatient	Patient	Mental Health
Clergy	Health information	Media	Information	Official Information
ROPI	Health Record	Release of	Privacy	request
OIA	Deceased	Medical Records	Third Party	Clinical Records / File
				General Practitioner - GP

11. Glossary

PHI	Personal Health Information
ACC	Accident Compensation Company
WCDHB	West Coast District Health Board
NMR	News Media Release
CYFS	Child, Youth and Family Services

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