

## The Terrace Medical Centre

### Privacy Policy

#### **Purpose:**

This policy sets out the requirements for The Terrace Medical Centre to comply with the Privacy Act and the Health Information Privacy Code (the Code).

#### **Parties:**

All staff of The Terrace Medical Centre must comply with the following rules when collecting, using, storing or disclosing information about patients' health or the treatment that they are receiving.

#### **Content:**

##### **1. Collecting health information**

When you collect health information from patients you must:

- only collect the information for the purpose of treating the patient or for some other legal purpose;
- collect the information directly from the patient unless they have consented to your collecting the information from someone else or one of the other exceptions to this rule applies; and
- let the patient know why you are collecting the information, who will have access to the information and that the patient is entitled to access and correct the information. You will not need to tell patients this if you have collected the same type of information from them before.

##### **2. Using Health Information**

Before using patients' health information you must do what you can to make sure that the information is accurate and up to date. The steps that you will need to take will vary depending on how old the information is and the risk of relying on inaccurate information in the circumstances.

You must only use patients' health information for the purpose for which you have collected the information unless the patient has consented to your using the information for another purpose, or one of the other exceptions in the Health Information Privacy Code applies. You must consult our practice's Privacy Officer before using a patient's health information without the patient's consent.

##### **3. Storing health information**

You must ensure that the health information that our practice holds is stored securely so that it cannot be accessed or used by unauthorised people.

When you transfer patients' health information to someone else, you must do what you can to prevent unauthorised people from accessing or using the information.

Our practice can keep patients' health information for as long as we need the Information to treat patients and must keep patients' health information for a minimum of 10 years from the date that treatment was last provided.

Our practice must destroy patients' health information in a way that ensures the confidentiality of the information. Documents must be put into a document-shredding box and securely transferred to the secure destruction bin, located in the central administration area.

Patients are entitled to ask our practice to confirm whether we hold information about them and to access the information unless we have lawful reasons for withholding the information.

Patients are also entitled to ask our practice to correct the information that we hold about them.

You must assist patients who ask to access their health information.

#### **4. Disclosing health information**

You must not disclose a patient's health information without their consent (or the consent of their representative) unless you reasonably believe that it is not possible for you to get the patient's consent and:

- the disclosure is for the purposes of the patient's treatment (e.g. a referral);
- the disclosure is to the patient's caregiver and the patient hasn't objected to the disclosure;
- it is necessary for you to disclose the information to prevent a serious and immediate threat to the patient or another person's life or health;
- the disclosure is made for the purposes of a criminal proceeding;
- the patient is, or is likely to become dependent on a drug that you need to report under the Misuse of Drugs Act or the Medicines Act;
- the disclosure is to a social worker or the police and concerns suspected child abuse;
- the disclosure is made by a doctor to the Director of Land Transport Safety and concerns the patient's ability to drive safely.

There are other situations where disclosure without consent may be justified, such as disclosing information to agencies such as Oranga Tamariki and the Police. You must discuss any proposed disclosure with our practice's Privacy Officer before disclosing the information.

#### **5. Accessing and correcting health information**

Patients have the right to access their health information and to ask you to correct their health information if they think it is inaccurate.

When health information is requested, this should be passed on to an administrative staff member to provide for the patient.

When a correction to health information is requested, this should be passed on to an appropriate clinical staff member.

You can refuse to correct a patient's health information if you have reason to believe it is recorded accurately; however, you must then put a note on the patient's record stating that they have requested for the correction to be made and your reason for refusing.

#### ***Timeframe***

If a patient requests health information or a correction to their health information, they must be responded to within 20 working days. This timeframe for responding can be extended if:

- The request is for a large amount of information, or meeting the request would require you to search through a large amount of information which would interrupt your duties; or
- You need to consult someone about whether to grant the request and require additional time to do this.

If you need an extension of time you must notify the individual in writing of why you need the extension within the 20 working day period. You must also advise the individual that they have the right to complain to the Privacy Commissioner about the extension.

### ***Grounds for withholding information***

Before disclosing the information requested, consider whether The Terrace Medical Centre has any grounds for withholding the information under the Privacy Act (sections 27 to 29). The grounds for withholding information that are most likely to be relevant to the practice are that:

- The disclosure would result in the individual receiving unauthorized information about someone else (e.g. where the information relates to two or more individuals);
- The disclosure may jeopardize the physical or mental health of the individual requesting the information; or
- The information:
  - Isn't readily available; or
  - Doesn't exist; or
  - Can't be found; or
  - Is not held and is not believed to be held by another agency.

A proper search for the information must be made before you can refuse a request on this basis.

You should seek specific legal advice on these grounds for withholding information as and when required.

When you have grounds for withholding *some* of the information contained in a document, you can give the individual a copy of the document with the confidential parts deleted. If you do this you must advise the individual of your reasons for deleting parts of the document.

If you refuse an information privacy request, you must advise the individual making the request of the reason for refusal and their right to complain to the Privacy Commissioner.

### ***Other agencies***

If The Terrace Medical Centre does not hold the information that has been requested, but you believe that another agency might hold the information, you must send a request to that agency within 10 working days of receiving the request. You must advise the individual that you have done so.

### ***Requests from representatives***

You must not give an individual access to information about someone else unless that individual is authorized to act on behalf of the other person. When an individual asks to access information on behalf of someone else you must confirm that they are authorized to receive information on the other person's behalf. They may be the legal guardian of someone younger than 16 years, have a signed authority, or have some form of court order.

Be aware that the spouse of a deceased patient will not automatically be a lawful representative. The representative of a deceased person is that person's executor or administrator.

### ***Charging for information requests***

You cannot charge for:

- Helping an individual with an information privacy request; or
- Transferring an individual's request to another agency; or
- Processing individual's request, including deciding whether to grant the request.

You *can* charge an individual a reasonable fee for:

- Providing information to them in accordance with their request; or
- Correcting information about them in accordance with their request.

When setting the charge, you must take into account the cost of the labour and materials involved in granting the individual's request. You can ask the individual to pay the whole or part of the charge in advance.

## 6. Call recording

Calls on the nurse, reception, and practice manager phone lines are recorded. These are recorded for training and quality purposes as well as complaint investigations. Only the practice manager has access to listen to recorded calls, and they are only listened to for investigation, quality improvement or training purposes.

Call recordings are securely stored electronically, and only the practice manager has access to the recordings. Recordings are stored for a maximum of 12 months before being securely deleted.

## 7. Sending patient information overseas

Personal information can now only be sent overseas if it will be adequately protected. It's your responsibility to do the due diligence on this.

You can only send information overseas if it will be subject to the same legal safeguards as in Aotearoa NZ. There are exceptions to this, including:

- You're sending to a country with similar privacy laws to Aotearoa NZ.
- The patient has given consent for you to send the information; however, if the country you're sending to doesn't have similar privacy laws to Aotearoa NZ you will need to expressly make the patient aware of this.
- The information is necessary to maintain public health and safety, to prevent a serious threat to someone's life and health, or for maintaining law.

## 8. Privacy Policy breach notifications

Breaches of privacy can happen despite our best efforts. In general practice, these could include:

- An unauthorised person sees a patient's private health information.
- Test results are accidentally shared with the wrong person.
- Your patient records have been hacked or attacked by a virus.
- Health information is disclosed to someone in breach of regulations.

Under the Privacy Act 2020, practices must notify a privacy breach that causes "**serious harm**" to:

- Office of the Privacy Commissioner within 30 days.
- Any affected people *as soon as possible*.

### **What does "serious harm" mean?**

The first step is to establish if a privacy breach has occurred. This may require IT assistance if there is no obvious evidence, but you have a gut feeling.

Then, determine if the breach is likely to cause "serious harm". This may be difficult to know. The Act doesn't provide a definition, but factors to consider include:

- Is the information personal or sensitive?
- Where did the information go/who has seen the information?
- What harm has been caused, e.g. emotional, reputational, financial etc.
- How likely is it that the breach will significantly affect someone?
- What security measures did you have in place to protect the information?

If you suspect the breach might be serious, you can use the Office of the Privacy Commissioner's online tool **NotifyUs**. There's a series of questions to determine whether the breach is notifiable. If it is, you can submit an online notification form.

You also need to notify any affected people as soon as possible. This is so they can take measures to protect themselves or their information, if they need to.

You must consult with our practice's Privacy Officer before disclosing a patient's health information without their consent. **The Privacy officer for The Terrace Medical Centre is the practice manager.**

#### **9. Complaints of breach of the Code**

Patients are entitled to complain if they feel that there has been a breach of the Code. Complaints must be resolved in a manner that is fair, simple, speedy and efficient. The Terrace Medical Centre has a complaints policy and a Complaints Officer (the practice manager) to whom any complaints relating to the Code should be referred.

Patients should be informed how to access support via the Office of the Privacy Commissioner if they wish to complain.

#### **10. Timeframe for responding to complaints and requests**

If a complaint or privacy request is made, you must make a decision and inform the individual of your decision within 20 working days.

You can extend the timeframe for responding if:

- The request is for large amount of information, or meeting the request would require one of your staff to search through a large amount of information which would interrupt their duties

Please contact our practice's Privacy Officer if you have any queries about this policy.

**References:**

Medical Assurance Society. *HealthyPractice*. Retrieved from <http://healthypractice.co.nz> September 2022

Privacy Commissioner (Revised edition 2020). *Health Information Privacy Code 1994* Incorporating amendments and including revised commentary. Office of the Privacy Commissioner, Wellington, 2008