

## **Guidelines for Doctors on Providing Patient Access to Medical Records**

**1997. Revised 2002**

### **Preamble**

The Australian Medical Association holds that for the sound administration of medical care and for the protection of the confidence which exists between medical practitioner and patient, it should be established as a principle of public policy that medical records should be confidential. (Federal Council Resolution 15/86)

Doctors recognise that the confidentiality of doctor/patient communications is a fundamental requirement for optimal patient care. The Australian Medical Association recognises the importance of doctor/patient communication and the patient's right to be informed about their health care and that patients generally have the right to access personal information held about them by doctors and organisations that provide health services.

The sharing of information held in the medical record of the patient enhances the quality of medical care.

The following Guidelines may assist doctors in the handling of requests by patients for access to medical records in accordance with legal requirements. Doctors may also wish to consult or follow the Office of the Federal Privacy Commissioner's Guidelines on Privacy in the Private Health Sector, 8 November 2001 and any relevant College guidelines.

### **Guidelines**

1. Patients have a right to be informed about all personal information held about them by an organisation that provides health services, and they generally have a right to access that information.
2. Where a patient requests a copy of their medical record doctors may suggest that the patient be provided with a copy of a health summary of the factual medical information contained in the medical record. If the patient wishes to access the full medical record (such as opinions contained in reports by specialists), doctors should ensure that such access is not likely to cause serious harm to the patient or any other person before acceding to that request.
3. If the patient persists with a request for access, it is suggested that other appropriate ways of providing the information to the patient are considered and discussed with the patient, such as, for example, the provision of a summary of the information. Doctors should document in the medical record any refusal of, or restriction on access and the reasons for that refusal or restriction.
4. It is recommended that, if in providing access, doctors permit a patient to view and/or copy a medical record concerning themselves, this should take place in the presence of the doctor so that the doctor is able to explain the record to the patient. The doctor may also wish to record any explanations and interpretations and make a copy of these available to the patient. This should avoid any misinterpretation which might occur with unsupervised access.
5. Doctors should be entitled to recover from the patient or from any other legally authorised person or authority requesting the information, the reasonable cost of providing access to the information contained in a medical record.
6. Except in circumstances of a medical emergency, or where there is a serious and imminent threat of harm to the patient or another person, and as required by law, medical records should

not, without the patient's express written consent, be released to persons other than the patient and other members of the treating team. Where appropriate, the consent of the patient's legally appointed guardian or attorney may be sufficient.

7. Doctors recognise that some minors are legally capable of consenting to medical treatment. The confidentiality of those minors must be respected. This implies that parents may not have automatic access to the medical records of minors.

Except in circumstances of a medical emergency, during the normal course of professional communication and as required by law, the consent of both parents must be obtained by the doctor before the records of children are released to persons other than the parents. It should not be assumed that one parent has the right, alone, to request and authorise disclosure of a child's record. If a parent asserts a sole right to authorise disclosure, a prudent doctor will seek a written explanation of that assertion and will seek his or her own legal advice on its correctness.

The confidentiality of patients with impaired decision-making ability must also be respected. This implies that immediate family or loved ones do not have automatic access to the medical records of patients with impaired decision-making ability.

8. Information from the medical records of deceased persons cannot be released other than according to statutory requirement, under legal compulsion, or with the consent of the executor or appointed administrator of the deceased person's estate.