

## **2.4 PRIVACY, CONSENT & FREEDOM OF INFORMATION POLICY**

### **2.4.1 Introduction**

The Victorian Health Records Act 2001 established a legally enforceable set of standards to ensure the responsible handling of health information in the public and private sectors. This Act has made some amendments to the Freedom of Information (FOI) Act to supplement access rights under that Act and make access rights broadly consistent between the public and private sectors. The standards set by the Health Records Act are contained in the eleven binding Health Privacy Principles (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.

Personal information includes medical records and those documents not normally regarded as part of the medical record such as appointment books, software data bases, data collection sheets and staff diaries.

The Victorian Freedom of Information Act 1982 established a legally enforceable right for clients to access information held by a Community Health Service.

Also refer to Client Records policy.

### **2.4.2 Policy Statement**

Ranges CHS will:

- maintain the privacy of clients personal information
- ensure this information is handled in an appropriate manner
- uphold all requirements of Privacy and Freedom of Information legislation

### **2.4.3 Procedures Relating to the Health Privacy Principles**

#### **1 Collection**

Ranges will only collect health information if necessary for the performance of a function or activity and with consent. All clients will be informed of what is done with this information and that they can gain access to it.

#### **2 Use and Disclosure**

Ranges will 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. Disclosure (discussion with a secondary person) will be recorded within the client file.

Client consent (or guardians consent in the case of children) must be obtained to consult or share information about a client with other workers within the Service or any person external to the service and must be recorded within the client file.

Disclosure of information without consent may occur:

- When the service user is either permanently or temporarily in an emotional/mental or physical state in which he/she is clearly unable to make any decisions for him/herself and information is needed to be acted on urgently.
- When advocating and referring on behalf of children when, according to the worker's assessment, they are at risk.

- To Ranges insurer where there is a reasonable belief that a client may take legal action against the Service.

### **3 Data Quality**

Ranges takes all reasonable steps to ensure that the health information held is accurate, complete, up-to-date and relevant to the functions performed by the service.

### **4 Data Security and Retention**

Ranges will at all times safe guard the health information held against misuse, loss, unauthorised access and modification. Destroying or deletion of health records will take place in strict adherence of the Act.

### **5 Openness**

Ranges will have documentation relating to its policy on the management of health information available. See Department of Human Services handout "Your Information – It's private".

### **6 Access and Correction**

Ranges follows all legislative guidelines for clients to access their health records:

- 'New records' are categorised by those created since December 21, 2001.
- 'Old records' are those for clients seen prior to December 21, 2001 but not subsequently. Access to 'old records' may be granted in one of the forms outlined previously or alternatively, the client will be provided with an accurate summary of the information. There is no right of access to non-factual information in 'old records' (such as practitioner's comments.)
- Removal of any part or whole document is not permissible and the document will remain the property of Ranges CHS.
- Where a practitioner is requested to explain the contents of records to clients the standard consultation fee will be applied.

### **7 Identifiers**

Ranges assigns a numerical identifier to client files, in order to facilitate effective health information management. No other identifier, other than this numeral, appears on the outside of health records.

### **8 Anonymity**

Where practical, Ranges gives individuals the option of not identifying themselves in relation to their contact with the Service.

### **9 Trans Border Data Flows**

No information will be transferred by Ranges outside Victoria unless the organisation receiving it is subject to laws substantially similar to the Health Privacy Principals.

### **10 Transfer/Closure of Service**

Should Ranges cease to practice, notice to current and past clients accessing the service will be given.

### **11 Making Information Available to another Service Provider**

Should an individual client request it in writing, health information relating to their contact with Ranges will be provided to another health service provider.

#### **2.4.4 Procedures Relating to Consent to Share Client Information**

Privacy and consent is discussed with all clients at the point of Initial Needs Identification at intake. The SCT Consumer Consent Template will be completed at this time. Specific release of information will be discussed with the client during consultations and recorded on the consent form and signed by the client. If written consent is not possible, verbal consent once given can be recorded on the Consent template or in the progress notes.

In order to give consent, clients need to understand what will happen to their information following clear advice from the staff member. Clients must be able to make their own decision about the sharing of information.

#### **2.4.5 Procedures Relating to FOI Requests**

The CEO is appointed "Principal Officer" to respond to FOI requests. All requests for information must be in writing. Clients requesting information must specify the document sought (NB. some documents are exempted from FOI).

- The "Principal Officer" will approve access to the information requested and arrange viewing and/or copying of the document. Removal of any part or whole document is not permissible and the document will remain the property of Ranges CHS.
- If access to a document is denied, the "Principal Officer" will give an explanation in writing including avenues of client appeal.
- The CEO is responsible for providing reports on FOI to the appropriate government department.
- If access to a document is denied, the "Principal Officer" will give an explanation in writing including avenues of client appeal.

#### **2.4.6 Procedure for Subpoena's and Solicitors Requests**

All external requests for client information are to be directed to the CEO.

- The CEO will ensure Subpoenas and other court orders are complied with.
- Requests by solicitors for information or reports must be in writing and require the written permission of the client before any client information is provided.

#### **2.4.7 Key Responsibilities**

The CEO is responsible for ensuring compliance with the Health Records and FOI Acts and may delegate this responsibility to members of the Management Team. CEO is responsible for any Reporting related to the Acts.

The Management team are responsible for ensuring all new staff, students and volunteers are informed of this policy.

#### **2.4.8 Quality Assurance Mechanisms**

The Management Team and CEO will monitor privacy issues through file audits, supervision and intake practices.

Annual review of this policy by the Management Team.

Implemented: 14/05/02

Reviewed: 20/4/09

Next Review: April 2010