

## TOWARDS A POLICY ON ACCESS TO PATIENT DENTAL RECORDS

### Patient Access to Records

This was effected in amendments to the *Privacy Act* (1988) (Cth), which was developed after *Breen v Williams* (1996)

In NSW, the [\*Health Records and Information Privacy Act \(2002\) No 71\*](#) particularly sections 26-32 has application.

Australian Privacy Principle (APP) 12 in the Privacy Act deals with access to personal information (including health information).

However, it doesn't set out any requirements for the way an access request is made.

### **Australian Privacy Principle 12 — access to personal information**

12.1 If an entity holds personal information about an individual, the entity must, on request by the individual, give the individual access to the information.

....

#### ***Dealing with requests for access***

12.4 The entity must:

- respond to the request for access to the personal information
- ....
- if the entity is an organisation — within a reasonable period after the request is made; and

give access to the information in the manner requested by the individual, if it is reasonable and practicable to do so

### **Who can ask for patient records**

1. Patients can request information about them or their children. They may not obtain information about other adults or children at all except in unusual situations such as guardianship and acting an attorney.
2. Another practitioner cannot ask for the records. The request must come from the patient.
3. If Family Law proceedings are on foot and there is disagreement about access between parents, seek advice.
4. AHPRA, and the Police can request records.
5. If you receive a Court notice such as a notice to produce or subpoena, seek advice.

## Transfer to Another Practitioner

1. To ensure appropriate on going care, when a patient transfers to other practitioners, practitioners should, when asked by a patient, make available either a copy of the original record or a summary.
2. The reasonable cost for this service should be borne by the patient, but practically there is little cost, and costs practically are better absorbed if possible.
3. While records containing patient dental information do not belong to the patient, the patient has a legal right to **access** those records.
4. When a patient requests that his/her records be made available to another dental practitioner, a dental practitioner should act on that request.
5. Dental practitioners are under no obligation to provide their original records. These should be retained by the practitioner who created them.
6. A copy of a patient's record may be sent to the patient's new practitioner. Depending on the size and/or complexity of the record, dental practitioners may wish to provide a health summary instead, if the patient agrees.
7. Copies of test results and other investigations, including plans of management should be made available. Copies of clinical reports from other medical practitioners about the patient may be included.
8. Dentists should have the patient complete the **Request for Release of Patient Records**

The Request for Release of Patient Record, should be

- Edited to suit the patient
- shown and explained to the patient
- signed by the patient
- copied once, signed and a copy then given to the patient
- then scanned and attached to the patient's electronic record as a document or filed.

## Release of Records to the Actual Patient

A Request for Release of Patient Records should be completed.

Patients may exercise this right in a number of ways (depending on, for example, the sort of information they have asked for, for example:

- looking over the records
- taking a copy of those records with them
- having the records explained to them.

## Manner of Providing Records

### Email

**Patients must make an informed choice to participate** in an email service and to give permission for the electronic transfer of their medical information. Information about the rules of using the service, the risks and the process for opting-in and opting-out need to be provided to patients.

There are a number of ways to do this but the **Request for Release of Patient Records should be completed which contains the issues about email.**

In terms of managing the actual process of receiving and responding to the emails:

- Allocate a senior staff member to be responsible for the overall management of email communications
- Depending on the type of practice, it may be appropriate to have a designated general email address

All the usual computer security measures of access via secure passwords must be in place.

Use of an encrypted secure email should be used if available. Ask your Internet domain provider about security.

The emailed records should contain the following text

*“ Dear PATIENT*

*as requested by you, we attach a PDF of your records/a summary of your treatment/your radiographs ....*

*Would you please be kind enough to reply to this email to confirm the receipt of this email and it's attachments”*

### Mail

Patients records or summaries can be mailed. It is recommended that mail with some sort of tracking be used as a minimum such as an Express Post envelope.

It may be appropriate to address it to the person and mark it personal and confidential; it is important to confirm the mailing address before it is sent, and to include a covering letter as follows.

*“Dear PATIENT*

*as requested by you, we attach a copy of your records/a summary of your treatment/your radiographs ....”*

## In Person

If a patient collects the records personally, have them sign a document which is printed on the practice letterhead containing for example the following text

“I PATIENT NAME have today received a copy of my dental records as I requested from PRACTICE,

Signed

Date”

## REQUEST FOR RELEASE OF DENTAL RECORDS

I [PATIENT NAME] of [INSERT ADDRESS] request

- my dental records / a summary of my dental records
- my child's /children's (INSERT CHILDREN'S NAME(S)) dental records/ a summary of my child's/ children's dental records

be released by [PRACTICE NAME] to

- Me
- My treating dental practitioner [DENTIST NAME]

I wish the records to be

- Given to me personally
- Mailed to me at this mailing address by Express Post and marked personal and confidential [INSERT ADDRESS].....
- Mailed to my treating dental practitioner [DENTIST NAME] at [INSERT ADDRESS]
- Emailed to me at [INSERT ADDRESS]
- Emailed to my treating dental practitioner [DENTIST NAME] at [INSERT ADDRESS]

In requesting the records to be emailed, I understand that

- the records will be emailed to my nominated email address whether my address or that of
- and that receipt by email may no be as secure as receiving the records personally
- that the practice accepts no liability for the records once they leave the mail server of the practice
- that the practice accepts no liability for the records if the records are accessed by unauthorised persons from the server, from the recipient mail server or the in any manner whatsoever without limitation.
- I can ask for the records to be provided to me personally or by mail if I am sufficiently concerned about email security.
- I will acknowledge receipt of the email.

.....

Signed

Date

(to be retained by Practice, copy to be provided to patient/parent/guardian)