Mental Health Information and the Health Records & Information Privacy Act 2002

Document Number  IB2010_044
Publication date  24-Aug-2010
Functional Sub group  Corporate Administration - Records
Clinical/ Patient Services - Mental Health
Clinical/ Patient Services - Information and data
Personnel/Workforce - Conduct and ethics
Summary  Describes requirements for mental health information under the Health Records and Information Privacy Act 2002 and the Health Records and Information Privacy Regulation 2006 and highlights requirements under sections of the Mental Health Act 2007 and Mental Health (Forensic Provisions) Act 1990.
Replaces Doc. No.  Mental Health Information - Health Records and Information Privacy Act (HRIPA) [IB2005_026]
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Applies to  Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations - Non Declared, Affiliated Health Organisations - Declared, Community Health Centres, Public Hospitals
Audience  Administration, clinical, allied health, nursing, mental health, community health, Justice Health
Distributed to  Public Health System, Government Medical Officers, NSW Ambulance Service, NSW Department of Health
Review date  24-Aug-2015
Policy Manual  Not applicable
File No.  10/262
Status  Active
MENTAL HEALTH INFORMATION AND THE HEALTH RECORDS AND INFORMATION PRIVACY ACT 2002

PURPOSE

The purpose of this bulletin is to notify health system staff that mental health information is to be dealt with in accordance with the requirements of the Health Records and Information Privacy Act 2002 (‘the Act’) and the Health Records and Information Privacy Regulation 2006. In addition it highlights sections of the updated Mental Health Act 2007 and the Mental Health (Forensic Provisions) Act 1990 which may apply to the sharing of mental health information.

KEY INFORMATION

All personal health information is considered sensitive personal information, dealing as it does with matters that are extremely personal and which a client/patient will expect to be shielded from public disclosure. As such, the Act does not contain special provisions for mental health information as the requirements of the Act already apply.

The Health Privacy Principles set out in the Act sets out the circumstances in which personal health information may be used or disclosed. Clients/patients should be given a copy of the NSW Health Privacy Leaflet for Patients (http://www.health.nsw.gov.au/utilities/privacy/patient.asp) so they can understand how their personal health information will be used and disclosed. In addition, the Privacy Manual (version 2), PD2005_593, reflects the provisions of the Act and provides guidance to health service staff regarding the management of personal health information, including its use and disclosure. The Mental Health and Drug and Alcohol Office directs staff involved in the care of clients/patients of mental health services to the Privacy Manual.

The Mental Health and Drug and Alcohol Office supports practices which aim to reduce stigma related to mental illness in the community, and which enable health workers to access mental health information about client/patients in their care. The provisions of the privacy Manual support such practices.

In addition to the above, the Mental Health and Drug and Alcohol Office supports the role of guardians/primary carers in the provision of mental health care and requires all health workers to apply the Mental Health Act 2007 sections: 6, 68, 71-73, 75, 78, 79 and 189 and the Mental Health (Forensic Provisions) Act 1990, section 76J, where applicable, when considering the disclosure of mental health information to guardians/primary carers and other persons.

Further Guidance:
- NSW Health Privacy Manual, PD2005_593
- Mental Health Act 2007
- Mental Health (Forensic provisions) Act 1990