

The Health Records Act 2001

The *Health Records Act 2001* (HRA) aims to protect the privacy of an individual's health information and how this information is managed. The Act applies to the Victorian Government sector, Victorian Government funded services, private health services within Victoria and any other organisations within Victoria that hold health information.

The Federal Privacy Act 1988

The federal legislation applies to the private sector, and services directly funded by the Australian Government.

How does privacy legislation fit with the Public Health and Wellbeing Act 2008?

They are complementary legislation. They do not replace legal obligations regulating the handling of personal and health information, such as the notification of conditions listed in the Regulations. They sit alongside existing protections such as medical confidentiality, and legislated responsibilities to disclose information where mandatory reporting exists.

What are my obligations regarding notifiable conditions and privacy?

Under the *Public Health and Wellbeing Act 2008*, doctors and laboratories are required by law to notify the Department of Health of diagnoses of specified conditions. The Public Health and Wellbeing Regulations 2009 stipulate the information that must be provided. This includes demographic data, clinical history, the disease or condition diagnosed, risk factors, suspected modes of transmission and clinical comments.

The HRA requires you to inform your patients that this information is provided to the Department, the reasons why it is provided and that there is a legal imperative to do so. The Department has developed information sheets you can give your patients to assist with this process.

Can my patients refuse to allow the disclosure of this information to the department?

No—it is a legislative requirement that is designed to identify causes and risk factors for infectious diseases and other notifiable conditions and to protect public health and safety.

What about supplementary information collected through enhanced surveillance?

Supplementary information is considered as statistical information essential for the planning, implementation and evaluation of public health services. The data collected are predominantly risk factors and clinical histories. The information collected, including sensitive information (for example, ethnicity, sexual preferences), is regarded as core data relevant to public health practice. The *Public Health and Wellbeing Act 2008* permits the disclosure of relevant clinical and risk factor information, and information about the suspected modes of transmission.

Where can I obtain further information?

Department of Health:

- Communicable Disease Prevention and Control Unit
1300 651 160
www.health.vic.gov.au/ideas
- Environmental Health Unit (lead related enquiries)
1300 761 874
www.health.vic.gov.au/environment
- Privacy Unit
1300 884 706
www.health.vic.gov.au/privacy
privacyquery@health.vic.gov.au

Office of the Health Services Commissioner:
www.health.vic.gov.au/hsc/

Australian Government Privacy Commissioner:
www.privacy.gov.au