

Privacy and Confidentiality Policy and Procedures

KM Surgical and Avenue Health (KMS/AH) will ensure the privacy of all patients is maintained and the organisation meets its obligations pursuant to the Privacy Act 2020 and the Health Information Privacy Code 2020.

Purpose:

To ensure all staff and contractors of KMS/AH are aware of their legal and ethical obligations to maintain patient privacy and confidentiality.

Scope:

This policy applies to all staff providing patient care and treatment at KMS/AH, and all contractors working at KMS/AH (e.g. cleaners). In this policy, where the context permits, all references to “staff” should be read as also including “contractors”.

The role of **Privacy Officer** for KMS/AH is undertaken by **Dr Ken Macdonald**.

Associated Documents:

Cultural Safety Policy
Māori Health Guidelines
Clinical Records Management Policy
Privacy and Confidentiality Self Learning Package
Authorisation to Release Information Form

Definitions:

Confidentiality: The nondisclosure of certain information except to another authorised person.

Health information: Information about an identifiable individual that relates to their health, disabilities, or other health related information as defined in s 4(1) of the Health Information Privacy Code 2020.

Personal information: Information about an identifiable individual, as defined in the Privacy Act.

Privacy: A culturally specific concept defining the degree of one’s personal responsibility to others in regulating behaviour that is regarded as intrusive. Some privacy-regulating mechanisms are physical barriers (closing doors or drawing curtains) and interpersonal types (lowering voices or ensuring that discussion does not occur in front of other patients).

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Privacy Act: The Privacy Act 2020.

Procedures:

1 Protecting Patient Anonymity Within and Outside of KMS/AH:

Any privacy breach that is likely to cause serious harm will be notified by the KMS/AH Privacy Officer to the Privacy Commissioner and any affected people as soon as practically able. Privacy breaches are reported via: : <https://privacy.org.nz/responsibilities/privacy-breaches/notify-us/>

The KMS/AH Privacy Officer will use the online Notify Us reporting tool to assess the seriousness of the privacy breach to see whether it is notifiable: <https://privacy.org.nz/tools/knowledge-base/view/331>

And then update the references on page 6:

1. The Health Information Privacy Code 2020; <http://privacy.org.nz/>
2. The Privacy Act 2020

- 1.1 Staff members who recognise patients and family/whanau outside of KMS/AH are to use total discretion if considering acknowledging the patient and family/whanau.
- 1.2 Under no circumstances should staff engage in discussion with patients or family/whanau about private care issues outside of KMS/AH.
- 1.3 If approached by patients or family/whanau about private medical or care issues, staff should advise patients or family/whanau to contact them at KMS/AH in their professional capacity.
- 1.4 It is not appropriate for KMS/AH staff to be 'friends' with patients (except for family/whanau) via Facebook or any other social networking site.

2 Privacy in Communal Areas:

- 2.1 Patients should not be asked to verify personal details in communal areas (e.g. waiting room) where they can be overheard by others.
- 2.2 Staff receiving patient information, i.e. personal information or medical data (or other Health Information) over the telephone should communicate information as discreetly and confidentially as possible, particularly in areas where audible privacy is not assured such as reception areas.
- 2.3 Patient information, including health information, should not be discussed in communal areas when other patients are present.

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- 2.4 Patient information, including health information, should not be discussed with family members unless the patient has provided consent for this sharing of information with that particular family member.
- 2.5 Patient records (paper and electronic) should not be kept in places easily accessible to other patients, visitors or unrelated staff. This includes any correspondence or appointments.
- 2.6 Outgoing mail awaiting collection to be placed face down when in an area accessible to public viewing.

3 Patient Privacy During Assessment and Treatment:

- 3.1 All staff and any other health professionals contracted to KMS/AH must at all times have respect for patient privacy encompassing emotional, physical and cultural perspectives throughout consultation or treatment.
- 3.2 Any physical or emotional information that is forthcoming from a patient under the care of KMS/AH needs to be treated confidentially and sensitively.
- 3.3 Patients are to be examined or receive treatment in a private room when physical privacy is required or auditory privacy indicated for the discussion of confidential or sensitive information.
- 3.4 Windows and curtains in patient rooms need to be closed during examination or treatment sessions requiring physical privacy.
- 3.5 Patient cover sheet to be used at all times during clinical examinations.
- 3.6 Consent, preferably written, for the recording of any electronic (audio or visual) patient assessment or meetings is required to be provided prior to commencement of recording. This consent is also to be obtained from all staff members, family or health professionals present.

4 Leaving Messages on Patient and Family/Whanau Answerphones:

- 4.1 Leaving messages for or about patients on patients or family/whanau answerphones or cell phones should be avoided where possible.
- 4.2 When urgent contact is to be made or the patient or family/whanau is expecting your call, the only message that is acceptable to be left on an answerphone or voicemail is:
 - 4.2.1 the name of the person who needs to call you back,
 - 4.2.2 your name, and
 - 4.2.3 your telephone number(s).
- 4.3 No clinical or medical details of any description (i.e. names of procedures or results) are to be left on answerphones or voicemail.

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5 Emailing (and Faxing) of Patient Information:

- 5.1 Faxing is no longer considered an appropriate medium for the communication of private information (email is preferred). However, if the recipient does not support email then faxing is appropriate as long as the following steps are taken into consideration. If the requestor is entitled to information:
 - 5.1.1 Staff should ensure email address (or fax number) of recipient is correct.
 - 5.1.2 Check e-mail address (or number after dialling), before pushing the send (or transmit) button.
 - 5.1.3 Where practicable, telephone prior to sending so the recipient is aware the e-mail or fax is being sent.

6 Necessity, Purpose and Collection of Information:

- 6.1 Patients are to made aware that the information collected from them is to assist with the treatment and care at KMS/AH and is treated in accordance with the Privacy Act at all times.
- 6.2 Information about patients should be collected from the patients themselves unless the patient has consented to collection from a third party or the collection of information from the patient is not possible. If collection from the patient is not judged to be in their best interests then it is acceptable for the KMS/AH staff to collect the information from a third party.
- 6.3 Health information or other personal information may not be collected by unlawful, unfair or unnecessarily intrusive means.

7 Patient Requests for Amendment of Patient Records:

- 7.1 Under Rule 7 of the Health Information Privacy Code 2020, and under the Privacy Act, patients are entitled to request correction of information in their patient records.
- 7.2 If KMS/AH is not willing to make an amendment, you must, if requested, take reasonable steps to attach a statement of the correction sought, but not made.
- 7.3 The statement should be attached so that it will be read with the disputed information.
- 7.4 Careful consideration must be given if the patient disagrees with diagnosis/comment and wants same removed from the file – removing this information could render notes incomplete.
- 7.5 KMS/AH must take reasonable steps to inform other relevant agencies of corrections to clinical records.

8 Protecting Patient Identity:

- 8.1 The starting point is that no health information or other personal information about a patient is to be given to any person other than the patient, and this includes next of kin.

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- 8.2 Unless specific consent is given by the patient for release of health information and personal information, only the general condition of the patient (e.g. satisfactory) can be released to next of kin.
- 8.3 Patients may complete the *KMS/AH Authorisation to Release Information* form to specify a particular person(s) who they will allow information to be given to. Staff must satisfy themselves as to the identity of the specified person before releasing the information to such persons.
- 8.4 Health professionals are to ensure, where at all possible, that calls to family/whanau following assessment and treatment takes place in a confidential environment.
- 8.5 Patients can also specifically request that no medical details be released to next of kin by informing the KMS/AH staff.

9 Releasing Patient Information:

- 9.1 Refer to Appendix ‘Guidelines for Releasing Patient Information’ for specific requests for patient information.

10 Releasing Electronic Patient Notes:

- 10.1 Patients have a right of access to personal information about themselves. This right is given by Rule 6 of the Health Information Privacy Code 2020 and Section 22F of the Health Act 1956.
- 10.2 Patients may request copies of their electronic clinical records either verbally or in writing.
- 10.3 Requests for copies of patient records are taken by the staff and should be directed to Dr Ken Macdonald for review of records before providing the patient with a copy. The release of clinical notes is subject to approval by Dr Ken Macdonald.
- 10.4 If a written request from the patient has not been received, the patient is required to sign authority to release notes in person. If the patient is not known to the staff member organising the release, a signature is required and photographic ID must be sighted.
- 10.5 Where possible, notes are to be released at the same time the authority is signed.
- 10.6 Patient records must be released to the patient within 20 working days of request. If KMS/AH is unable to meet this timeframe, the reason for the delay must be conveyed to the patient in writing.
- 10.7 If the patient has signed consent for release of information the electronic clinical patient records may be printed and emailed or posted to the patient. Verify patient’s email or postal address before sending. Where possible, envelope should be sent by registered post. Envelope must be marked Private and Confidential. If notes are sent by email, follow the process in section 5 “Emailing (and Faxing) of Patient Information” above.
- 10.8 Patient notes should not be collected by a Third Party.

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10.9 Annotate the date and details of patient records released to the patient in their patient records. Also enter your initials and designation.

11 Urgent Requests:

11.1 If an individual wants a request to be treated as urgent, they must explain why.

11.2 The above procedures, in points 2-5 and 7-10 above, should be followed for urgent requests.

11.3 Where possible, every effort should be made to fulfil the patient’s request.

12 Releasing Sensitive Patient Information:

12.1 Sensitive patient information should be recorded in the patients’ clinical record under the following heading: *“This information is not to be disclosed without the permission of the person who provided the information.”*

12.2 If a third party requests access to patient information that includes sensitive patient information, contact the person who provided the information and ask permission to disclose the information to the given requestor.

12.3 Record the details of the conversation between yourself and the person who provided the information in the patient’s clinical record. Ensure you record whether permission for disclosure was granted or refused.

13 Releasing Patient Records in an Emergency:

13.1 In a clinical emergency where the patient must be transferred to hospital, if at all practicable the electronic clinical record is to be printed out to accompany the patient.

14 Releasing Details of Patient Records Verbally to Patients and Family/Whanau:

14.1 Patients or family/whanau (who are authorised by the patient to receive such information), may telephone KMS/AH to find out results of tests, assessments or other information from their personal or family member’s patient record.

14.2 Staff should first satisfy themselves of the patient or family member’s identity and authority before releasing information. If this cannot be readily done, staff should courteously tell the caller that it will be necessary for him or her to call in to KMS/AH with means of identification to enable the information to be released.

14.3 If in doubt about the caller’s true identity you must not give out any information from patient records.

15 Protection of Staff Privacy:

15.1 KMS/AH requires some confidential and private information from its employees (minimum detail only required) including:

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- 15.1.1 Home contact details
- 15.1.2 Emergency contact
- 15.1.3 Bank account/IRD number
- 15.1.4 Proof of qualifications, e.g. Current Practicing Certificate for registered health professionals.
- 15.2 The above information is held in locked filing cabinets or secure electronic systems and only accessed by appropriate staff, i.e. Business Manager for IRD and Bank account details.
- 15.3 Other staff do not have the right of access to this personal information and at no time should that information be discussed or passed on by any person who has right of access to this information. If personal information is inadvertently accessed, this must be treated with respect and confidentiality.
- 15.4 Some information such as Dr Ken Macdonald’s contact details may need to be made available to staff and other persons dependant on the circumstances. This is only to be given out in appropriate circumstances where the judgement of the person giving out the information deems that it is in the best interests of KMS/AH patients or business activities.
- 15.5 If staff wish to make a complaint regarding any interference with their privacy, they may take their complaint to Dr Ken Macdonald personally. This complaint can be taken to the Privacy Commissioner if not resolved.
- 15.6 If staff at any time feel vulnerable or at risk when giving or receiving information by phone or in person with a patient, they should alert Dr Ken Macdonald as soon as possible and where possible not give or receive the information.
- 16 Patient Privacy Complaints:**
 - 16.1 If a patient approaches a staff member with a complaint relating to their privacy – staff must guide the patient to a private area before the matter is discussed further.
 - 16.2 Staff should advise (or assist) the patient to document details of the complaint in writing on the KMS/AH Incident form and forward to Dr Ken Macdonald (the organisation’s Privacy Officer).
 - 16.3 If the patient wishes to discuss the complaint verbally, refer them to Dr Ken Macdonald.
 - 16.4 Staff member is to arrange a suitable time for meeting between patient and Dr Ken Macdonald.
- 17 Notification of privacy breaches**
 - 17.1 A privacy breach includes any unauthorised or accidental access to, or disclosure, loss, alteration or destruction of, personal information (including health information).

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- 17.2 Staff should be aware that the Privacy Act requires certain privacy breaches, known as “notifiable privacy breaches”, to reported to the Office of the Privacy Commissioner and the affected individual or individuals. However, not all privacy breaches are notifiable. A notifiable privacy breach is one where it is reasonable to believe that the breach has caused, or is likely to cause, serious harm.
- 17.3 Failure to inform the Privacy Commissioner of a notifiable privacy breach is an offence under the Privacy Act and may result in KMS/AH incurring a fine of up to \$10,000. Therefore, it is of utmost importance that all KMS/AH staff report any privacy breach to Dr Ken Macdonald as soon as they become aware of the breach.
- 17.4 As Privacy Officer, Dr Ken Macdonald has primary responsibility for determining whether or not a privacy breach is notifiable, and ensuring that KMS/AH fulfils any applicable notification obligations.

18 Confidential Rubbish Separation and Disposal:

- 18.1 Rubbish that has patient or staff information on it must be disposed of in a confidential manner.
- 18.2 If possible, immediately insert papers into a shredder.
- 18.3 If this is not immediately possible, place confidential papers into a box dedicated for confidential rubbish.
- 18.4 Boxes of confidential rubbish must be emptied into the confidential shredding bin as often as possible.
- 18.5 If patient information is on any plastic or other non-shreddable materials, ensure the information cannot be read by erasing or crossing out and place in rubbish bin.

References and Standards:

1. The Health Information Privacy Code 2020 (see <http://privacy.org.nz/>)
2. The Privacy Act 2020
3. Official Information Act 1982
4. The Health Act 1956
5. Health and Disability Services (Safety) Act 2001
6. The Code of Health and Disability Services Consumers’ Rights 1996
7. NZS 8164:2005 Day-stay surgery and procedures standard 1.1.7, 4.2.3

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Appendix: Guidelines for Releasing Patient Information:

Requestor:	Requesting info about:	Required before release of info:	Timeframe:
Patient	Self	<ul style="list-style-type: none"> Signed request or consent for release of information from patient Dr Ken Macdonald to review Patient Records prior to release ID sighted if not known by staff organising records 	Within 20 working days of request
GPs	Patient	<ul style="list-style-type: none"> Request under Section 22F of Health Act Dr Ken Macdonald to view Clinical Records prior to release 	N/A
Patient's Agents (on behalf of Patient)	Patient	<ul style="list-style-type: none"> Written and signed authorisation from patient for release of Patient Records. Dr Ken Macdonald to review Patient Records prior to release ID of Agent must be sighted and Agent must sign for records 	Within 20 working days of request
Executor or Administrator of will	Deceased Patient	<ul style="list-style-type: none"> Evidence of authority from Lawyer Dr Ken Macdonald to review Patient Records prior to release Signed request for information ID of Executor or Administrator sighted and records signed for 	Within 20 working days of request
Police (performing or exercising official duties)	Patient	<ul style="list-style-type: none"> Request under Section 22C of Health Act Dr Ken Macdonald to review Patient Records prior to release ID of Police person sighted and records signed for (if collected in person) 	Within 20 working days of request
Children (Under 16 years)	Self	<ul style="list-style-type: none"> Signed request or consent for release of information from patient Dr Ken Macdonald to review Patient Records prior to release ID Sighted if not known by staff member organising records 	Within 20 working days of request
Parents	Own children (under 16 Years)	<ul style="list-style-type: none"> Signed request or consent for release of information from parent Refer request to Dr Ken Macdonald for decision re disclosure of Patient Records ID sighted if not know by staff member organising records 	Within 20 working days of request

Requestor:	Requesting info about:	Required before release of info:	Timeframe:
Government Agencies	Patients	<ul style="list-style-type: none"> • Written request including signed consent for release of information from patient • Dr Ken Macdonald to review Patient Records prior to release 	Within 20 working days of request
Insurance Companies	Patients	<ul style="list-style-type: none"> • Contact patient for verbal consent to release the requested information • If patient uncontactable, post requested information to patient and ask them to send to insurance company 	
Researchers/Auditors	Patient	<ul style="list-style-type: none"> • Discuss guidelines for release of information with Dr Ken Macdonald • ID sighted if Researcher/Auditor not known to staff 	

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