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MEDICAL RECORDS

Can medical records be combined with allied health records?

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It is becoming increasingly popular for medical practitioners to share premises with a range of allied health practitioners, such as naturopaths, osteopaths, nutritionists, physiotherapists and others.

In regards to a patient's medical record, questions can arise on the following issues:

- Who owns the medical record?
- Who can access the record, enter information, use and disclose information contained in the medical record?
- Are patients aware who can view their medical record?
- What happens if a practitioner decides to leave the practice? Can they take a copy of the medical record with them?
- Are you complying with obligations regarding use and disclosure of personal information under the *Health Records Act* 2001 (Vic) and the *Privacy Act* 1988 (Cth)?

A 'medical record' includes any record that stores personal health information about an identifiable person.

As such, any record containing personal health information must be dealt with in compliance with the *Health Records Act* and the *Privacy Act*. This means that the same obligations apply to records created by a general practitioner as those created by a nutritionist, for example.

If a practice wants to consolidate information into the one record for each person, into which different practitioners can enter information, this can create issues regarding ownership, use and disclosure of the information within the record.

In the absence of any specific agreement to the contrary, the practice will own the record where numerous practitioners enter information into it. If only one practitioner enters information into a record, it is more likely (though not determinative, depending on what the employment or contractor agreement states) that the record is owned by that practitioner and not the practice.

If a practitioner decides to leave a practice, they are entitled to take with them only medical records that they own. Departing practitioners are not entitled to take a copy of records owned by the practice.

Furthermore, there may be issues with confidentiality and privacy if practitioners from multiple disciplines can access a person's medical record, regardless of whether or not that information is necessary for the practitioner to provide treatment.

For this reason, it is preferable that medical records created by general practitioners remain separate from those created by allied health professionals. This avoids any possible unlawful disclosure of a person's personal health information.

Alternately, some computer programs may enable different levels of access into the one record so that there is no contravention of privacy laws. For example, a nutritionist may be able to enter information into a record, but will not be able to view the notes entered into that same record by the general practitioner, unless the patient consents to granting access.

Practices who are considering consolidating medical records with allied health records should seek advice from their medical indemnity insurer.