

AS 4400—1995

Australian Standard[®]

**Personal privacy protection in
health care information systems**

This Australian Standard was prepared by Committee IT/14, Health Informatics. It was approved on behalf of the Council of Standards Australia on 7 September 1995 and published on 5 October 1995.

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Australian Hospital Association
Australian Institute of Health and Welfare
Australian Institute of Radiography
Australian Medical Association
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Australian Private Hospitals Association
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Attorney Generals Department
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This Standard was issued in draft form for comment as DR 94277.

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PUBLISHED BY STANDARDS AUSTRALIA
(STANDARDS ASSOCIATION OF AUSTRALIA)
1 THE CRESCENT, HOMEBUSH, NSW 2140

ISBN 0 7337 0115 9

PREFACE

This Standard was prepared by the Standards Australia Committee IT/14 on Health Informatics.

This Standard defines the requirements for personal privacy protection in health care information systems.

For the purpose of this Standard, the following applies: Appendix A is an extract of the information privacy principles contained in the *Privacy Act 1988* (Cwlth).

Two important issues that often give rise to concerns regarding information privacy requirements are explicitly commented on as follows:

- (a) The Standard applies only to information which, directly or indirectly, may cause a person to be identified and therefore breaches their right to personal privacy. The Standard does not in any way interfere with the capacity of individuals and organizations to undertake research or studies on any aspect of health and health care services, as long as the data used by those organizations is either aggregated or has personally identifying fields stripped or made irretrievable.
- (b) The Standard incorporates a general disclosure clause, consistent with internationally accepted privacy principles. Where there may be a serious or an imminent threat, or both, to the life of a person (e.g. possible premature failure of an implanted device or in the context of emergency care of an unconscious patient), disclosure of private information is permitted for the purposes of lessening or preventing the threat and in the context of the duty of care of a health professional to that person.

At the same time, the professional conduct of research, quality assurance, clinical audit and evaluation are important aspects of the provision of health services that must be balanced with the need to protect personal information. Adequate information and valid research is important, to help the community make decisions about the prevention and treatment of disease and the maintenance of good health. This Standard aims to support the necessary balance between the protection of privacy and the requirement for health research.

The Standard contains references to the National Health and Medical Research Council (NHMRC), *Aspects of privacy in medical research*.

The protection of personal information from privacy infringement is an issue of major concern for the health sector and to informed members of the public. Computer networks store more and more personal health information in a form where access to it, and alteration of it, may pass undetected unless appropriate measures are taken.

Consumers of health care services must be secure in the knowledge that the information that they share with their chosen health service providers, is treated with respect for their privacy and is kept secure and confidential, otherwise they will be unwilling in many cases to seek appropriate care, or to provide accurate and complete information. This will not only compromise their own health care, but will also confound programs of clinical and health services research, health professional education and public health protection.

The rapid development of electronic information systems and wide area health networks has highlighted the issues, by making personal health information potentially more accessible by larger numbers of people and with greater capacity to be linked and matched with other data from within and without the health sector to create new information. The issues are not new; they have always been present. But technological developments and current initiatives have served to raise their profile and to require that guidelines are established.

The information which passes between a health care provider and patient is not (legally), privileged information (unlike communications between lawyer and client). However, codes of conduct of health professionals do provide a form of quasi-protection by influencing what is construed as proper practice and therefore professionally correct. This Standard is therefore formulated against the background of insufficient legislative protection on privacy issues, such as unauthorized access to computer systems.

In terms of existing legislation in Australia, the Privacy Act applies within a limited jurisdiction. Australian State health legislation in some jurisdictions may set out specific statutory duties for public sector staff, but is neither adequate nor comprehensive. National health and health insurance acts regulate some aspects of privacy in relation to Commonwealth staff who obtain personal information. Some protection has also been afforded under the common law. Overall, it is generally agreed that existing legislative protection of the privacy of personal information is patchy and inadequate, a matter which can be of particular concern to patients and care providers alike.

The approach taken in this Standard is that target organizations will devise their own information policies and codes of conduct and sets of rules. It is recommended that these policies be subject to audit and review by an appropriate body or bodies as outlined in the document.

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