

## **Privacy Policy & National Privacy Principles**

### **PRIVACY, CONFIDENTIALITY AND THE NATIONAL PRIVACY PRINCIPLES**

The maintenance of privacy requires that any information regarding individual patients, including staff members who may be patients, may not be disclosed either verbally, in writing, in electronic form, by copying either at the hospital or outside it, during or outside work hours, except for strictly authorised use within the patient care context at the hospital or as legally directed.

There are no degrees of privacy. All patient information must be considered private and confidential, even that which is seen or heard and therefore is not to be disclosed to family, friends or others without the patient's approval or at the doctor's discretion. Any information given to unauthorised personnel will result in disciplinary action and possible dismissal.

Each staff member is bound by his/her confidentiality agreement, which is signed upon commencement of employment or during the most recent appraisal, at Logan Endoscopy Day Surgery Centre (LEDSC).

All information received in the course of a consultation between a doctor and the patient is considered personal health information. This information includes medical information, family information, address, employment and other demographic and accounts data obtained via reception. Medical information can include past medical and social history, current health issues and future medical care. It includes the formal medical record whether written or electronic and information held or recorded on any other medium, for example letter, fax, or electronically.

Both medical and non-medical staff at LEDSC have a responsibility to maintain the privacy of personal health information and related financial information. The privacy of this information is every patient's right. With this in mind, doctors are aware of the potential for breaches when:

- Discussing results and information
- Speaking too loudly to patients
- Discussing results with other doctors
- Discussing results especially with relatives of adolescents and the frail

All medical staff are expected to comply with the Code of Ethics and/or Code of Conduct as determined by their relevant professional body.

### **MAINTAINING CONFIDENTIALITY**

Items for the courier are to be left at the reception desk behind the counter, not on top in public view. Items for pathology are to be left in the specimen collection box in the clean utility room, not in public view.

Whenever a door to any office, consulting or treatment room is closed staff will knock and wait for a response prior to opening the door.

It is the doctor's responsibility to keep scripts, medications, medical records and related personal patient information secure, whilst they are not in attendance at LEDSC.

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All staff must follow the listed guidelines to minimise the risk of potential breaches of confidentiality.

- Waiting patient medical records are not accessible by the public
- Charts are to remain turned over at front desk when not in use
- Staff speak softly at front desk
- Only minimal personal information is discussed in a public area
- Follow appropriate telephone procedures
- Close treatment and consulting room doors
- Use privacy screens or curtains
- Computer screens must not be able to be seen or be accessible to the public including couriers and visitors
- Computer screens displaying a previous patient's data are closed before the next patient enters the room
- Computer screens are locked when the doctor or staff leave the room or if the patient is left alone
- Strict guidelines are followed when releasing confidential details on the phone, by hard copy and electronically.

### ADMINISTRATION OF PRIVACY LEGISLATION

The CEO is our privacy officer who implements and monitors adherence to all privacy legislation in LEDSC.

The privacy officer acts as liaison for all privacy issues and patient requests for access to their personal health information. If staff have any queries concerning privacy law they are to refer to the privacy officer.

The CEO attends information and training sessions with regard to Privacy Legislation laws and trains staff and implements new policy and procedures in the hospital when deemed appropriate.

Privacy audits or observations of policies and procedures are conducted regularly within the hospital. Following this audit, changes to the policies and procedures will be made (if necessary) and training will be conducted accordingly.

### PRIVACY POLICY

In compliance with the *Privacy Amendment (Private Sector) Act 2000*, LEDSC has prepared this privacy policy to describe the way and circumstances under which personal information is collected, stored, used and disclosed and also how complaints are handled by LEDSC.

The related policy and procedure has been recorded underneath the National Privacy Principle for easy reference. The policy is intended as a guide to staff and patients of LEDSC and for the advice of the broader community.

## Privacy Policy & National Privacy Principles

For the purposes of this policy, no distinction has been made between the handling of personal information and sensitive information (including health information); therefore all information will be referred to as “personal information” throughout this policy.

### NPP 1 – COLLECTION

*Collection of personal information must be fair, lawful and not intrusive. A person must be told the organisation’s name, the purpose of collection, that the person can get access to their personal information and what happens if the person does not give the information.*

#### Policy

- LEDSC will only collect personal information necessary to provide our patients with a quality health service.
- Personal information about a patient will only be collected by lawful and fair means and directly from the patient wherever possible.
- Wherever practical LEDSC will only collect information directly from the patient. This may not be possible if the patient is unconscious or otherwise incapable of providing that information. If information is collected about a patient from another party, LEDSC, will whenever possible, advise the patient of this.
- LEDSC will ensure that each patient providing personal information is informed about and understands the purpose of collecting the information. They will also be advised as to whom or under what circumstances their personal information may be disclosed to another party and how they can access the information held about them by LEDSC. This will be carried out via notices and/or brochures and/or verbally.
- LEDSC will ensure that patients who are asked to provide personal information understand the consequences, if any, of providing incomplete or inaccurate information.

### NPP 2 – USE AND DISCLOSURE

*An organisation should only use or disclose information for the purpose it was collected unless the person has consented, or the secondary purpose is related to the primary purpose and a person would reasonably expect such use or disclosure, or the use is for direct marketing in specified circumstances, or in circumstances related to public interest such as law enforcement and public or individual health and safety.*

#### Policy

- LEDSC will ensure that personal information will only be used for the purpose it was collected, or that would reasonably be expected by the patient providing the information.
- If the identified information is to be used for a secondary or unrelated purpose, such as data analysis or research, we will obtain informed consent from the patient.
  - > Individuals will be given the opportunity to refuse such use or disclosure.
  - > If a patient is physically or legally incapable of providing consent, a responsible person (as described under the Act) may do so.

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- LEDSC will only disclose personal information without consent where such disclosure is required by law, or for law enforcement, or in the interests of the patient's or the public's health and safety.
- LEDSC will keep records of any such use and disclosure.
- Information may be disclosed to a responsible person (as described under the *Act*).

### Notifiable Diseases

#### Policy

Under *Infectious Diseases Act - Health (Infectious Diseases) Regulations* in Sections 146, 390 and 391 of the *Health Act 1958*, medical practitioners are to report infectious diseases as specified. Notifications of cases are made to the nearest Public Health Unit. Details can be found at: <http://www.health.qld.gov.au/cdcg/contacts.asp>

It is the responsibility of the treating doctor or nominated person to notify the nearest Public Health Unit of any communicable diseases.

### Nursing/Medical Students

#### Policy

Patients may not wish to have their personal health information used for education purposes. LEDSC respects its patient's right to privacy and where possible will use de-identified data for case studies. LEDSC will always inform patients of impending nursing/medical students participating in hospital activities and ask patients to consent to this.

### Quality Program

#### Policy

Where it is desired to publish material related to clinical work or for hospital continuous quality improvement activities, the anonymity of patients is to be preserved.

### Subpoena, Court Order, Search Warrant and Coroner

#### Policy

Information will be released if a subpoena, court order, search warrant or coroner request is received. If the doctor is concerned about confidentiality issues, he/she may decide to challenge it in court if sufficient evidence amounts to possible breach in confidentiality.

#### Procedure

1. Inform the patient's doctor and general manager.
2. Retrieve the patient's medical record
3. Scan the court document or letter outlining the date of court case into VIP as part of the patient's medical record.

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4. If patient document is required for court, a printed version will be made available and marked as 'COPY'. This will be performed by the Executive Manager or Management Representative as directed by LEDSC's legal advisers.
5. The medical chart will be transferred to the Clerk of the courts securely.
6. Return the record to the hospital after the review by the court unless otherwise instructed by the court.

**Relatives and Friends****Policy**

No information is to be released unless the patient has authorised another person to be given access if they have the legal right and a signed authority.

Separate records are advised for all family members but especially for children whose parents have separated and care must be taken that sensitive demographic information about either partner is not recorded on the demographic component of the record.

**Police and Lawyers****Policy**

Police and lawyers must obtain a signed patient consent (or subpoena, court order or search warrant) for release of information. The request is directed to the doctor. Where only a signed patient request is obtained the doctor is not legally obliged to release information.

**Emergencies****Policy**

Where immediate treatment is necessary to preserve a life or prevent serious injury, all attempts are made to gain the patient's consent. This may not be successful in all cases prior to administering emergency care.

**Informed Consent (refer to Consent Policy)****Policy**

Doctors are to inform their patients of the purpose, benefit and risks of proposed treatment or investigations. Patients need to receive sufficient information to allow them to make informed decisions about their care.

Information is clear and given in a form that is easy to understand, whether it be verbally, in a diagram with explanation, brochure, other handout/leaflet or poster.

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Doctors need to take into consideration the patient's ethnicity and principal language spoken. Steps are taken to ensure an interpreter is utilised where necessary and at the patient's request. Issues of personality, personal fears and expectations, beliefs and values are also considered.

There is to be no coercion by doctors. Patients can choose to reject their doctor's advice or seek a second opinion. Doctors are to inform patients of potential additional costs and out of pocket expenses for treatments and investigations, prior to them being carried out, whether they would be done on site or referred to medical specialists.

Patients are asked to be honest and should be able to freely discuss all health issues and proposed treatments, without the fear of reprisals.

Patient consent is obtained for the following:

- Operative procedures on-site (written consent)
- Patient's personal health information sought for research projects (written consent)
- Clinical training program (verbal consent)
- Third party observation or participation in patient consultation (verbal consent)

The *Privacy Amendment (Private Sector) Act 2000* states that consent may be 'expressed' or 'implied'.

- Express Consent – clear and unmistakably states, obtained in writing, orally or in any clear other form where consent is clearly communicated.
- Implied Consent – e.g. patient presents to doctor, discloses health information and this is written down by the doctor/entered on computer during the consultation; e.g. doctor collects specimen and sends it to pathology, reason to consider that the patient is giving implied consent to passing necessary information to the laboratory.

### **Consent Forms (*if operative procedures are performed on-site*)**

#### **Policy**

LEDSC's Patient Consent form, or the doctor's own consent form, is used by the doctor for patient consent to on-site procedures. The doctor explains the form to the patient and completes it with the patient signature.

#### **Procedure**

Doctors inform patients of the following issues concerning treatment and investigations:

- Possible nature of illness/disease
- Proposed approach to investigation, diagnosis and treatment including describing if it is conventional or experimental, common side effects and the clinician undertaking the procedure/treatment
- Purpose, importance, benefits and risks
- Other options

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- Length of procedure/treatment
- Approximate indication of costs involved including out of pocket expenses
- Degree of uncertainty of a) any diagnosis found and b) therapeutic outcome
- Potential result of not undertaking the specified procedure/treatment or any other treatments

### NPP 3 – DATA QUALITY

*An organisation must take reasonable steps to make sure that the personal information it collects, uses or discloses is accurate, complete and up-to-date.*

#### Policy

LEDSC will take reasonable steps to ensure that personal information kept, used or disclosed by the hospital is accurate, complete, and as up to date as practicable.

Medical records are confidential legal documents. Doctors and staff have a responsibility to maintain the privacy of every medical record, which is each patient's right. As a key component for the continuing management of our patients, accurate and complete records are kept.

Each patient has an individual medical record incorporating a health summary, progress notes, referrals made and responses received including pathology, x-ray; documentation of telephone calls, home visits, after hours communication and all hospital visits made.

Doctors, hospital nurses and authorised students of LEDSC are responsible for documenting their own notations for care given to their patients. For each consultation the health professional's notes the following details in the medical record:

- Doctor's name
- Date
- Reason for consultation
- Other problems managed
- Management plan
- Planned dates for review
- Medications prescribed with route, frequency, other directions for use and number of repeats
- Preventative care
- Referrals to other health care practitioners
- Consent issues

Appropriately filed pathology, x-ray/scans and related referrals and results are in the medical record.

All entries are dated and initialled or signed. Information in the medical record is not prejudicial, derogatory nor irrelevant and is legible being able to be read by other health care practitioners for the ongoing management of the patient.

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Referrals to other health care providers contain sufficient information for continuing health management with signature, designation and date. A copy remains in the medical record.

Patients who attend our hospital on a regular basis have a health summary included in their medical record. The record may contain family and social history, past and active problems, allergies and sensitivities, medication, immunisation status and any risk factors present.

### NPP 4 – DATA SECURITY

*An organisation must take reasonable steps to protect the personal information it holds from misuse and loss and from unauthorised access modification or disclosure.*

#### Policy

- All personal information held by LEDSC will be:
  - > If in paper form, received and stored in a secure, lockable location;
  - > If in electronic form, protected from theft, loss or corruption;
  - > Accessible by staff only on a “need to know” basis;
  - > Protected from viewing or access by unauthorised persons; and
  - > Not taken from LEDSC offices unless authorised and for a specified purpose.
- LEDSC will destroy or permanently de-identify personal information that is no longer required.
- If applicable, LEDSC will ensure that all personal information transmitted electronically will be appropriately encrypted before transmission.

The following guidelines are followed for maintaining security:

- Hospital records are to be maintained, handled and stored in a manner which will prevent:
  - > Loss
  - > Breaches of confidentiality
  - > Unauthorised access
- Maintain Privacy/Confidentiality from others (e.g. patients, public and staff) under all circumstances including patient:
  - > Address
  - > Telephone number
  - > Results
- Written/telephone requests – always follow the correct procedure.
- Ensure appropriate disposal of documents including patient files, accounts and business records.
- LEDSC maintains an accurate recording system to update and track files, especially changes of name or address. Correct disposal requirements must be observed.

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### **Facsimile**

#### **Policy**

The following procedure is to be strictly adhered to, due to the medico-legal nature of our patient information:

- When faxing patient information, the fax number and identification of the recipient must be confirmed before transmitting.
- Ask the person requesting the fax to ensure that someone authorised is standing by to receive the fax at that fax machine.
- Record "Confidential" on the fax coversheet.
- Check the number dialled before sending.
- Keep transmission report produced by the fax as evidence that the fax was sent. Also confirm the correct fax number on the report.

### **NPP 5 – OPENNESS**

*An organisation must have a policy document outlining its information handling practices and make this available to anyone who asks.*

#### **Policy**

- LEDSC is committed to advising patients about its information handling practices.
- This Privacy Policy will be made available to any person requesting it.

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### NPP 6 – ACCESS AND CORRECTION

*Generally speaking, an organisation must give an individual access to personal information it holds about that individual on request.*

#### Policy

- Under normal circumstances LEDSC will provide a patient with access to their personal information within 30 days of receiving a request for access.
- All requests are to be provided in writing. Identification is also requested to ensure that a false application is not lodged.
- There will be no fee associated with lodging a request for access.
- Patients will be provided with an opportunity to discuss their personal information with an appropriate member of staff when access is sought, however a fee for the doctor's time may be charged.
- Provision of access to a patient's personal information will be undertaken in a way that is appropriate to the person's particular circumstances, e.g. use of interpreters, etc.
- If a patient believes that information held by LEDSC is inaccurate or incomplete, LEDSC will take steps to amend or correct the information.
- LEDSC may refuse access if it reasonably believes that:
  - > A person's health, safety or wellbeing may be compromised by releasing the information;
  - > Providing access would be unlawful or would prejudice a legal investigation.
  - > Providing access would affect the privacy of others.
  - > The request for access is frivolous and/or vexatious.
  - > The information held in the patient's medical record would be used against the doctor in a medico-legal matter.
- Under circumstances other than those described above where information is withheld, LEDSC will ensure that its practices are consistent with the provisions of NPP 6.
- If information is withheld under NPP 6.4, LEDSC will provide an explanation to the patient as to the reasons why this was the case.

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### Corrections in Medical Record

#### Policy

A patient may ask to have their personal health information amended if he/she considers that is not up to date, accurate and complete. LEDSC will correct this information. Corrections are attached to the original health record.

Where there is a disagreement about whether the information is indeed correct, LEDSC attaches a statement to the original record outlining the patients' claims.

It is the policy of LEDSC that identified errors are not permanently removed. It will be noted in the record that the information has been deemed incorrect, incomplete or not up-to-date, and changes added to correct the information and initialled and dated by the author with an explanatory note beside or below the original item. Thus the reason for the incorrect entry is clearly documented with the new entry underneath or in the next available position. The new entry is signed or initialled and dated.

#### Procedure

If an error occurs in writing, within the medical record:

1. The error is to be crossed through the course of entry in a single line, initialled and dated, by the author.
2. Provide an explanatory note beside or below the original item.
3. New information is recorded, signed or initialled and dated.

### NPP 7 – IDENTIFIERS

*Generally speaking an organisation must not adopt, use or disclose, an identifier that has been assigned by a Commonwealth government 'agency'.*

Except where circumstances allow (NPP 7.2), LEDSC will not use Medicare or Veterans Affairs numbers or other identifiers assigned by a Commonwealth or State/Territory agency to identify personal information.

### NPP 8 – ANONYMITY

*Organisations must give people the option to interact anonymously whenever it is lawful and practicable to do so.*

#### Policy

Where it is lawful and practical to do so, LEDSC will allow patients to provide information anonymously.

- A patient who chooses to access the services of LEDSC anonymously will be advised of any potential consequences resulting from their decision. For example

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where the lack of a contact name or address may jeopardise care in an emergency situation.

- LEDSC will not automatically preclude a patient from participating in the activities of LEDSC because they request anonymity.

### **NPP 9 – TRANSBORDER DATA FLOWS**

*An organisation can only transfer personal information to a recipient in a foreign country in circumstances where the information will have appropriate protection.*

#### **Policy**

LEDSC will only transfer personal information about a patient to someone who is in a foreign country if:

- The patient consents to the transfer;
- The recipient is bound by legislation that is substantially similar to the NPPs; or
- LEDSC will ensure that the information will not be held, used or disclosed inconsistently with the NPPs.

### **NPP 10 – SENSITIVE INFORMATION**

*An organisation must not collect sensitive information unless the individual has consented, it is required by law – or in other special specified circumstances, for example, relating to health services provision and individual or public health or safety.*

#### **Policy**

LEDSC will only collect sensitive information other than health information about a patient if:

- the patient consents; or
- the collection is required by law; or
- such collection is consistent with the provisions of NPP 10.