

NSW Office
Phone: +61 2 7287 4500

14 March 2017

Gemma Broderick
Senior Legal Officer
Legal and Regulatory Services Branch
NSW Ministry of Health
Locked Bag 961
North Sydney NSW 2059

Re: Remake of the Health Records and Information Privacy Regulation 2012

Established in 1927, the Royal Australasian College of Surgeons (RACS) is the leading advocate for surgical standards, professionalism and surgical education in Australia and New Zealand. RACS is a not-for-profit organisation representing more than 7,000 surgeons and 1,300 surgical trainees.

Approximately 95 per cent of all surgeons practicing in Australia and New Zealand are Fellows of the College (FRACS).

RACS is committed to ensuring the highest standard of safe and comprehensive surgical and patient care for the communities it serves, and as part of this commitment, it strives to take informed and principled positions on issues of public health.

We greatly appreciate this opportunity to comment on the Ministry of Health proposal to remake the Health Records and Information Privacy Regulation in the same form as the 2012 version. We support this action in general but would like to comment on one Clause 6B and ask for clarification on Clause 5.

With regards to Clause 5:

Health information may be used or disclosed for purpose of chaplaincy services

For the purposes of clauses 10 (1) (k) and 11 (1) (l) of Schedule 1 to the Act, an organisation may use or disclose health information for a secondary purpose if:

(d) the individual to whom the health information relates would reasonably expect the organisation to use or disclose the information for the secondary purpose.

We are unsure if this is an assumption and may lead the way to misinterpretation due to the blanket statement nature, e.g. if the individual was assumed to seek chaplaincy help but was actually opposed due to personal beliefs or circumstances. We feel that there is a need for clarification of the individual's personal views, beyond reasonable expectations. We would suggest that a clear communication path would be required to undertake this to reduce risk of incident.

With regards to Clause 6B:

Exemption for My Health Record system trial

(1) Clause 15 of Schedule 1 to the Act does not apply to an organisation to the extent that the organisation includes health information about an individual registered for the My Health Record system trial in the My Health Record system.

The NSW Committee would like to highlight that they are supportive of the My Health Record system trial and the exemption of the said trial is an important addition.

A handwritten signature in black ink, appearing to read 'Raffi Qasabian', with a large, stylized flourish at the end.

Dr Raffi Qasabian

Chair, NSW Regional Committee