

1. Purpose Statement

TLC Healthcare is committed to the protection of personal information, health information and privacy and as a result have adopted a privacy policy and procedure based on:

- relevant State and Federal privacy laws including the Privacy Principles); and
- its longstanding adherence to a range of existing legal and ethical obligations regarding privacy, security and confidentiality of personal matters, including health information.

2. Scope

This policy applies to all staff, residents, patients, contractors, students and volunteers of TLC Healthcare. It is also relevant to residents' and patients' next of kin and powers of attorney for the purposes of seeking access to personal information (including health information).

3. Policy

This policy addresses all matters relating to personal information including employment information, health information and personal privacy.

3.1 How we collect Personal Information (Principle 1 – Collection)

TLC Healthcare will only collect personal information that is necessary for one or more of its legitimate functions or activities. TLC Healthcare will only collect personal information by lawful and fair means, not in an unreasonably intrusive way.

TLC Healthcare will make available to residents, patients and other persons in respect of whom TLC Healthcare collects personal information with a copy of its Privacy Brochure. The Privacy Brochure will set out a range of rights and obligations in relation to the information practices which TLC Healthcare undertakes or may undertake.

Where TLC Healthcare collects information from a third party, TLC Healthcare will, subject to the exceptions permitted by law, make the Privacy Brochure (or the information contained in it) available to the subject of the information.

3.2 When We Collect Information (Principle 1 – Collection)

TLC Healthcare will not collect personal or health information about an individual except in the following circumstances:

- (a) with their consent, or
- (b) where required/permitted by law, or
- (c) to prevent or lessen a serious and imminent threat to the life or health of any individual, subject to the relevant legislative requirements, or
- (d) in defence of a legal claim, or

Privacy Policy and Procedure

- (e) to provide a health service, so long as the information collected is required to be obtained by law or is collected in accordance with rules established by the bodies referred to in relevant privacy legislation; public health and public safety research or statistical analysis, subject to the relevant legislative requirements, or
- (f) management, monitoring or funding of the health service provided, subject to the relevant legislative requirements, or
- (g) provision of health service in relation to individuals who are incapable of giving consent, subject to the relevant legislative requirements, or
- (h) collection by or on behalf of a law enforcement agency, subject to the relevant legislative requirements, or
- (i) where TLC Healthcare collects health information from a person (other than the patient/resident or the patient's/resident's treating health professional) who asks or confirms that the information is to remain confidential, TLC Healthcare will only record the information if it is relevant to the provision of health services to, or care of, the patient. It will also take reasonable steps to ensure that the information is accurate and not misleading. It will also take reasonable steps to record that the information was given in confidence and is to remain confidential.

3.3 Use & Disclosure (Principle 2 & 3)

TLC Healthcare will only use or disclose personal information (including health information) in the following circumstances:

- (a) for the primary purpose for which it was collected, or
- (b) for a directly related secondary purpose within the reasonable expectation of the individual to whom it relates, or
- (c) where the individual consents, or
- (d) for public health/public safety research or statistical analysis subject to the relevant legislative requirements, or
- (e) for lessening or preventing certain threats to individual health or safety or public health or safety, subject to the relevant legislative requirements, or
- (f) for certain investigations into suspected or actual unlawful activity, subject to the relevant legislative requirements, or
- (g) uses/disclosures that are permitted or required by law; or
- (h) use/disclosure linked to certain activities of law enforcement bodies, subject to the relevant legislative requirements (where that occurs, a note must be made of the use/disclosure), or
- (i) communicating with the person responsible for the patient where the patient cannot give or communicate their consent, subject to the relevant legislative requirements, or
- (j) funding, management, planning, monitoring, improvement or evaluation of health services, or training of employees or persons working with TLC Healthcare subject to the relevant legislative requirements, or
- (k) such other use as permitted or required by law including relevant privacy laws and any regulation/guidelines to be introduced in the future.

3.4 Data Quality (Principle 4)

TLC Healthcare will take reasonable steps to make sure that the personal information it collects, uses or discloses is accurate, complete and current.

3.5 Data Security and Data Retention (Principle 5)

TLC Healthcare will take reasonable steps to protect personal and/or health information it holds from:

- (a) misuse and loss;
- (b) unauthorised access;
- (c) unauthorised modification;
- (d) unauthorised disclosure.

TLC Healthcare will take reasonable steps to destroy or permanently de-identify personal information if it is no longer needed for any purpose, subject to relevant legal requirements regarding document retention and deletion.

3.6 Openness (Principle 6)

This Privacy Policy will be made available to anyone who requests it.

On request by a person, TLC Healthcare will take reasonable steps to advise the individual as appropriate making the request, in general terms, what sort of personal and/or health information it holds, for what purposes, and how it collects, holds, uses and discloses that information.

3.7 Access and Correction (Principle 7)

3.7.1 Access

Where TLC Healthcare holds personal and/or health information about an individual, it will provide the individual with access to the information in a form or manner suitable to the individual's reasonable needs. These access rights are subject to the following exemptions and exceptions recognised by law:

- (a) providing access would pose a serious risk to the life or health of any individual, subject to the relevant legislative requirements.
- (b) providing access would have an unreasonable impact upon the privacy of other individuals.
- (c) the request for access is frivolous or vexatious.
- (d) the information is subject to legal privilege.
- (e) providing access would reveal TLC Healthcare's intentions in relation to negotiations with the individual in such a way as to prejudice those negotiations, subject to the relevant legislative requirements.
- (f) providing access would be unlawful.
- (g) denying access is required or authorised by law.

- (h) providing access would be likely to prejudice the investigation of possible unlawful activity for various investigations of improper conduct, more fully described in the relevant privacy legislation.
- (i) the information was given in confidence, subject to the relevant legislative requirements.
- (j) providing access would reveal evaluative information generated within TLC Healthcare in connection with a commercially sensitive decision-making process.

TLC Healthcare will not charge for the lodgement of an application which requests access. TLC Healthcare may, however, render charges for providing access to personal and/or health information. Those charges will not be excessive and will be consistent with specific legal requirements regarding charges for records access.

3.7.2 Correction

TLC Healthcare will take reasonable steps to correct information it holds about an individual where the individual establishes that the information is either not:

- (a) accurate,
- (b) complete; or
- (c) current.

Where TLC Healthcare and the individual cannot agree as to whether the information is in fact accurate, complete or up-to-date, TLC Healthcare will associate with the information a statement recording that dispute, where the individual asks for it. TLC Healthcare will also take such further steps as are required by the relevant privacy legislation.

3.8 Identifiers (Principle 8)

An identifier includes a number assigned by TLC Healthcare to an individual to identify uniquely that individual for the purposes of TLC Healthcare's operations but does not include the individual's name or an ABN (as defined in the *New Tax System – Australian Business No. Act 1999*).

TLC Healthcare will not create as its own identifier of an individual any identifier of an individual that has already been assigned by a Commonwealth agency, an agent of an agency acting in its capacity as agent, or by a contracted service provider for a Commonwealth contract acting in its capacity as contracted service provider for that contract. TLC Healthcare will therefore not adopt as its own identifier a Medicare number, a Department of Veterans Affairs' number, a Tax File number (and other forbidden identifiers).

Such forbidden identifiers may, however, be used where they are specifically permitted to be used under the relevant privacy legislation.

TLC Healthcare will not use, disclose or keep a record of the forbidden identifiers except in the circumstances outlined in the relevant legislation. Those circumstances

are similar to the circumstances outlined in Principle 2 dealing with use/disclosure of personal information (see Principle 2).

3.9 Anonymity (Principle 9)

Wherever it is lawful and practicable, individuals will have the option of not identifying themselves when entering transactions with TLC Healthcare.

3.10 Trans-border Data Flows (Principle 10)

TLC Healthcare will not undertake the cross-border transfer of personal information save in the circumstances permitted under the relevant legislation. The permitted circumstances include (but are not limited) to the following situations:

- (a) where the individual consents;
- (b) where TLC Healthcare reasonably believes that the recipient of the information is subject to privacy laws that are at least as strong as those which govern TLC Healthcare's information practices;
- (c) transfer is required to give effect to a contractual arrangement, subject to the relevant legislative requirements.

3.11 Procedure upon closure of a facility and transfer to another health service (Principle 11)

Where a facility of TLC Healthcare is either:

- (a) sold;
- (b) closed down; or
- (c) otherwise transferred, (including where TLC Healthcare or one of its facilities is amalgamated with another organisation and the successor organisation which is the result of the amalgamation is a private sector organisation);
- (d) in circumstances where the TLC Healthcare facility will not be providing health services in the new practice or business,

TLC Healthcare will take the steps required by the relevant legislation to notify patients and the general public with a view to making arrangements for the retention or transfer of the relevant health information.

3.12 Making written information available to another Health Service Provider upon the individual's request/authorisation

For the purposes of this Principle, "Health Service Provider" means an organisation that provides a health service in Victoria to the extent that it provides such a service but does not include a Health Service Provider, or a class of Health Service Provider, exempted under the Health Records Act.

if an individual either:

- (a) asks TLC Healthcare to make health information it holds about the individual available to another Health Service Provider, or

Privacy Policy and Procedure

- (b) authorises another Health Service Provider to ask TLC Healthcare to make such information available to the requesting Health Service Provider,

then TLC Health will, upon payment of a fee (if appropriate which must not exceed the prescribed maximum fee and subject to the regulations, if any) and as soon as practicable, provide a copy or written summary of that health information to that other Health Service Provider.

3.13 Surveillance

Whilst TLC Healthcare does operate Closed Circuit Surveillance at its facilities, TLC Healthcare will not allow, at any of its sites, the use of surveillance devices (in optical or listening format) in any:

- Workplace toilets
- Workplace washrooms
- Workplace change rooms

4. Procedure

4.1 Access to Information

4.1.1 Request is made to access Health Information / Records (including employment records) (it is assumed that such requests will come to the facility or site in the first instance).

4.1.2 Any verbal request must be forwarded by the General Manager to the Privacy Officer within 3 days of the receipt of the verbal request. The Privacy Officer will decide if the verbal request should be put in writing and notify applicant if necessary.

4.1.3 Written requests to access personal Health Information must be made via the Application to Access Health Information. This form must be forwarded to the Privacy Officer within 3 days of receipt of the written request.

4.1.4 Written requests to access employment records must be made in writing to the Privacy Officer.

4.1.5 Privacy Officer discusses request (verbal or written) with the Chief Operating Officer, General Manager and other parties as appropriate.

4.1.6 The Privacy Officer and Chief Operating Officer will ascertain credentials of person making request (if it is not the relevant individual).

4.1.7 A letter acknowledging the request is sent to applicant as soon as possible by the Privacy Officer.

4.1.8 Within 45 days after receiving a request, the applicant will be given:

- (a) a written reason for refusal of access to health information; or

Privacy Policy and Procedure

- (b) a written notice that the applicant will be given access to health information upon payment of the specified fee
- (c) access to the health information within 7 days after payment of fee or 45 days after receiving request, whichever is the later.
- (d) If access is granted, the Privacy Officer will discuss with applicant the form of the access, e.g. summary, inspection, copy, viewing with explanation. At every step in the process, the Privacy Officer will consult with the appropriate General Manager.

4.2 Complaint about access to Information

4.2.1 Complaint in writing to be sent to the Chief Operating Officer in the first instance for investigation.

4.2.2 Within 21 days of receipt of a complaint in writing, the complainant will be provided with a response in writing in relation to the request.

5. Roles & Responsibilities

5.1 CEO

- Authorises the Privacy Policy and Procedure
- Has overall responsibility for ensuring that systems and processes are in place for compliance with all relevant legislative, regulatory and statutory requirements, professional standards and guidelines.

5.2 Privacy Officer

- Is responsible for managing requests for Health Information/Records, including granting and refusing requests for access.

5.3 Chief Operating Officer

- Liaises with Privacy Officer regarding requests for Health Information / Records where required.

5.4 General Managers and Other Managers

- Ensures that this procedure and related documentation are distributed throughout the site
- Is responsible for collecting and forwarding requests for Health Information/Records to the Privacy Officer
- Liaises with Privacy Officer regarding requests for Health Information/Records where required.

6. Definitions

Term	Definition
Personal Information	This is information or an opinion (including information or an opinion forming part of a database) whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion
Employment records	Information relating to the employment of an individual including employment contract, performance information (including performance appraisals), payroll records, training records and compliance information.
Health information	This consists of: <ol style="list-style-type: none"> 1) information or opinion about: <ol style="list-style-type: none"> (a) the health (whether physical, mental or psychological) or a disability (at any time) of an individual: or (b) an individual's expressed wishes about the future provisions of health services to him or her; or (c) a health service provided, or to be provided to an individual that is all personal information. 2) Other personal information collected to provide, or in providing a health service; 3) Other personal information that is genetic information about an individual in a form which is, or could be, predictive of the health (at any time) of the individual or of any of his or her descendants
Consent	Consent means the voluntary agreement of the individual (or the authorised representative of that individual where the individual lacks the capacity to the consent) concerning a proposed action. Consent can be either express or implied. Express consent means consent provided explicitly, either verbally or in writing. Implied consent arises where the consent may be reasonably inferred from the action or inaction of the individual
Primary Purpose	This is the main reason the individual would expect their information to be used. For TLC Healthcare residents and patients the primary purpose is the provision of relevant care and/or treatment of their presenting problem(s).
Secondary Purpose	A secondary purpose is the use of information that may or may not be apparent to the individual at the time the information was collected. Some secondary purposes are directly linked to the primary purpose whereas others are not. An example of a directly

	linked secondary purpose relevant to TLC Healthcare is the use or disclosure of information for billing purposes.
Use	“Use” means use within the organisation. An example is sharing information between members of the TLC Healthcare team that need to use the information for the purpose of providing care for the resident or treating the patient.
Disclosure	“Disclosure” means provision of information to external bodies, persons or organisations
Employer	“Employer” means a person, unincorporated body or firm
Washroom	This includes a room fitted with bathing or showering facilities
Workplace	This means any place where workers perform work

7. Related / relevant legislative / policy frameworks

Information Privacy Act (Vic) 2000
 Health Records Act (Vic) 201
 Health Records Regulations (Vic) 2002
 Privacy Amendment (Private Sector) Act (Cth) 2000
 Surveillance Devices (Workplace Privacy) Act 2006
 Privacy Legislation Amendment (Emergencies & Disasters) Act (Cth) 2006
 Tax File Number Guidelines (Cth) 1992

8. TLC Related Documents

Health Information Privacy Procedure
 Privacy Statement Brochure
 Application to Access Health Information
 Acknowledge Health Information Access Letter

9. Link with TLC Healthcare Values

Excellence – we strive to be the best in all that we do
 Respect – we value diversity, treating each other with courtesy and care
 Integrity – we act with honesty, openness and professionalism

10. ISO 9000 & Aged Care Accreditation Standards reference

3.1 – The governing body leads the organisation’s strategic direction to ensure the provision of quality, safe services.

11. History

19/12/2017: Corrected misspelling under 3.5a ‘oss’ to ‘loss’