



Epworth HealthCare

Excellence, Everywhere, Every Day

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27 July 2010

Senate Finance and Public Administration Committee
Exposure Draft
Australian Privacy Principles

By email: fpa.sen@aph.gov.au

Epworth Foundation, trading as Epworth HealthCare, at Epworth Richmond, Epworth Freemasons Epworth Eastern and Epworth Rehabilitation at Richmond Camberwell and Brighton Victoria is pleased to comment on the recent exposure draft of legislation to amend the *Privacy Act*.

We have chosen to confine our comments on the impact of the exposure draft on our business in so far as it affects the provision of health care and fundraising activities (whereby our patients may be approached by us by direct mail for donations).

Australian Privacy Principle 7 - Direct Marketing

Our current practice is to ask patients on the admission form to opt out if they do not wish to receive what is termed *additional information* from Epworth HealthCare or Epworth Medical Foundation – the fundraising arm of Epworth HealthCare.

We note that the exposure draft permits an organisation that holds *personal information* about an individual to use or disclose that information for the purpose of *direct marketing* where the individual has consented to that use or if the information.

We would wish to use *personal information* for the purpose of direct marketing in circumstances where we would assert that patients have a *reasonable expectation* that their personal information would be disclosed or used for that purpose.

We believe that we do provide a *simple means* by which the individual may easily request not to receive direct marketing communications from us.

It may be that the Australian Privacy Principles could contain examples of what organisations need to provide as a "*simple means by which an individual may easily request not to receive direct marketing communications from the organisation*".

This should be clarified in the legislation.

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Epworth HealthCare comprises:

Epworth Corporate
Epworth Medical Foundation

Epworth Richmond

Epworth Eastern

Epworth Freemasons
Victoria Parade
Clarendon Street

Epworth Rehabilitation
Richmond
Brighton
Camberwell
Dandenong

Australian Privacy Principle 3

We note that under Australian Privacy Principle 3 there is the right to request a pseudonym when dealing with an entity – and point out that this may be impracticable for Hospitals and HealthCare organisations who must deal with individuals by means of the shortly to be assigned *unique HealthCare identifier*. Whilst it is always possible to deal with patients under pseudonym, individuals *are* first required to identify themselves, either by Medicare card or with a unique healthcare identifier in order to receive treatment in Australian hospitals.

The Australian Privacy Principles drafted to date do not take into account the recently enacted *Healthcare Identifiers Act 2010*, and should accommodate this change in the law.

Epworth looks forward to updating its policies and processes about the management of personal and health information following the promulgation of the Australian Privacy Principles.

It remains of concern however that Epworth is at the same time, subject to the Health Privacy Principles promulgated under the Victorian *Health Records Act* and wherever possible there should be consistency of approach.

Elizabeth Kennedy
Corporate Counsel