

# *Lady of Grace Aged Care Facility*

PRIVACY AND CONFIDENTIALITY		
Policy No: Pol/GM6	Version 1.0	No of Pages: 14
Authorised by: CQI Executive Committee	Approved on: 18/12/14	Next Review: December 2017

## **Purpose:**

To outline strategies that support privacy and confidentiality of organisation, residents and its workers. To ensure that all personal information collected is used, managed and fulfils the organisational requirement under the legislation and Australian Privacy Principles (APPs). To assist in provision of information related to: information requirement, information purpose and protocol for access to personal information. To inform of ways that information can be used to improve service provision.

Privacy refers to the individual's control over their personal information and availability of information to others.

Confidentiality refers to Lady of Grace Aged Care Facility's obligation to keep information private.

## **Policy Statement:**

Lady of Grace Aged Care Facility is committed to protecting individuals and organisational private information to ensure service provision and legal requirements are met through:

- Collection of personal information of stakeholders including: residents and workers to ensure efficient delivery of quality care
- Resident and/or their person's responsible consent to provision of resident's personal information to allied health professionals
- Provision of resident's information to health service provider during transfers or discharge
- Provision and obtaining worker references to and from organisations
- Worker's consent to provision of worker personal information to allied health professional or organisation when dealing with worker's compensation
- Maintaining anonymity where possible regarding issues of concern and where risk exists to potential breaches of confidentiality
- Provision of access to individual's personal information
- Ensuring confidentiality of individual or organisational information during storage of hard and soft copies.
- Ensuring confidentiality is maintained during safe disposal of individual or organisational information.
- Seeking consent to disclose information where required
- Open and transparent management of personal information
- Provision of complaint or feedback mechanism for individuals if breach of APPs occurs

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## Policy Context:

This policy relates to:	
Legislation and regulations	<p>Aged Care Act 1997            Anti-Discrimination Act 1977            Anti-Discrimination Regulation 2014            Crimes Act 1900            Disability Act 2006            Freedom of Information Act 1982            Health Administration Act 1982            Health Information and the Privacy Act 1988            Health Records and Information Privacy Act 2002            Health Records and Information Privacy Code of Practice 2005            Health Records and Information Privacy Regulation 2006            Health Services Act 1997            Mental Health Act 2007            Mental Health Act Regulation 2013            National Health and Medical Research Council (NHMRC) Act 1992            Privacy Amendment (Enhancing Privacy Protection) Act 2012            Privacy and Personal Information Protection Act 1998            Privacy Regulation 2013            Protected Disclosures Act 1994            Public Health Act 2010            State Records Act 1998            State Records Regulation 2010            Work, Health &amp; Safety Act 2011            Work, Health &amp; Safety Regulation 2011</p>
Standards and Frameworks	<p>Standard 1, 2, 3 and 4.</p> <p>Australian Privacy Principles (APP) 2014 Office of the Australian Information Commissioner  <a href="http://www.oaic.gov.au/privacy/applying-privacy-law/app-guidelines/">http://www.oaic.gov.au/privacy/applying-privacy-law/app-guidelines/</a></p> <p>PD2011_022 Your rights and responsibilities 2011 NSW Health Policy Directive  <a href="http://www0.health.nsw.gov.au/policies/pd/2011/pdf/PD2011_022.pdf">www0.health.nsw.gov.au/policies/pd/2011/pdf/PD2011_022.pdf</a></p> <p>PD2005_593 Privacy Manual (Version 2)- 2005 NSW Health  <a href="http://www0.health.nsw.gov.au/policies/pd/2005/pdf/PD2005_593.pdf">http://www0.health.nsw.gov.au/policies/pd/2005/pdf/PD2005_593.pdf</a></p>
Organisational policies	<p>Pol/GM1-GM3, GM7-GM10.            Pol/HRM1-HRM14            Pol/RM1-RM17</p>
Organisational flow charts	<p>FC1- FC30.</p>

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## **Collection of Information**

Lady of Grace Aged Care Facility collects solicited personal information of residents, workers, contractors, work experience students and volunteers that is 'reasonably necessary' for delivery of safe and effective services.

Lady of Grace Aged Care Facility obtains consent from the individual or their person responsible to collect the personal information.

Lady of Grace Aged Care Facility ensures the methods for collection of solicited personal information remain fair and lawful at all times.

### Resident

Solicited personal information regarding resident may be required for the following:

- Provision of aged care services: accommodation, care and billing
- Enable service provision from allied health professionals including doctors
- Provision of a contact person regarding action to be taken when resident condition changes or deteriorates
- Provide information regarding services that would benefit resident care
- Meeting legal requirements for provision of services
- Obtain appropriate level of funding for the service delivery
- Provision of risk management strategies to prevent or minimise risk of injury
- Enable to meet resident lifestyle needs
- Undertake research, education and training of workers

Strategies for information collection include but are not limited to:

- Resident or person for notification
- ACAT assessment and/or discharge letter from a health service provider
- Resident's medical practitioner and allied health professionals involved in resident care
- Completion of organisational forms
- Completion of surveys and questionnaires
- Provision of accounts and billing information
- Observation and assessment
- Feedback and complaints

Information is collected upon enquiry for admission, on admission and continues during the time at Lady of Grace Aged Care Facility.

Lady of Grace Aged Care Facility maintains the resident right to privacy and confidentiality is met at all times.

The resident is considered the best source regarding personal information.

Where a resident is unable to contribute to collection of personal information or provide consent due to: physical disability caused by a stroke or cognitive impairment, then it is their nominated person responsible who provides information and consent on their behalf.

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Information collected for residents includes but is not limited to:

- Personal details: name, age, gender, marital status, beliefs, birth country
- Health history, current health and treatment, allergies and operations
- Resident's Medicare, pension, DVA, private health fund numbers
- Person for notification, billing information and contact details
- Bank details for direct debit of monies owing to Lady of Grace Aged Care Facility

## Worker

Lady of Grace Aged Care Facility ensures that accurate information is collected for worker to gain and maintain employment. Information collection on worker's employment history, skills and experience and occurs through:

- Job application of potential workers, resume or curriculum vitae (CV),
- Reference checks of potential workers
- Completion of 'worker package' upon gaining employment
- Attending induction and orientation program
- Account information for payroll and superannuation
- Feedback and complaints
- Annual performance appraisal, education and training

Worker's personal information collected includes but is not limited to:

- personal details: name, address, age, gender, contact details
- work history: skills and experience, prior injury or work compensation claims, certificate of service
- educational background: certificate or bachelor's degree
- current registration with AHPRA and police checks
- superannuation and bank account information for payroll
- permanent residency and work visa status
- immunisation status

Residents and workers are provided with an explanation or reason for collection of information requested of them and that such information collected is for safe provision and delivery of services. The resident or their person responsible and worker are also made aware of access to the personal information and complaints handling mechanism regarding any aspect of personal information handling.

## Unsolicited personal information

In circumstances where Lady of Grace Aged Care Facility receives unsolicited personal information on an individual resident or worker, then Lady of Grace Aged Care Facility must determine whether the information could have been collected if information was solicited. Lady of Grace Aged Care Facility must destroy the information within legislative requirements if:

- it is determined that information could not be solicited and,
- that the information is not part of a legal record.

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## **Use of Information**

Lady of Grace Aged Care Facility maintains openness and transparency with residents and/or their person responsible, and workers regarding how solicited personal information is used and bound by privacy and confidentiality.

The personal information of residents and workers is only used by Lady of Grace Aged Care Facility provided that consent has been given to the use of information and its disclosure. Disclosure of information to a third party occurs only where health situations exist and where disclosure of information is required by government authority.

Lady of Grace Aged Care Facility does not disclose individual's personal information to overseas parties.

## Residents

Residents and/or their person responsible are informed about their right to privacy and confidentiality through:

- resident handbook,
- verbal re-enforcement of legislation and regulations'
- organisational policy
- information on admission to Lady of Grace Aged Care Facility, and
- Confidentiality form completion upon admission to Lady of Grace Aged Care Facility "*Privacy and Confidentiality of Personal Disclosure*"

Information collected on resident physical, social and psychological health status is documented but not limited to the following:

- assessment charts
- nursing care plans and interim care plans
- medication charts
- accident/incident forms
- progress notes
- medical notes
- mobility charts
- social profiles
- funding applications
- financial invoices for billing
- feedback and complaints

Resident personal information is available to workers who are directly involved in resident's care.

All workers are able to access information relevant to resident's care according to their role and level of involvement in resident's care.

Kitchen workers have access to information regarding resident's diet and nutrition specifications.

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## Workers

Lady of Grace Aged Care Facility maintains privacy and confidentiality regarding its workers.

Workers are aware of the privacy and confidentiality of information through:

- information provision upon employment
- staff handbook
- current legislation and regulation
- reading and signing a 'Confidentiality Agreement' upon gaining employment with Lady of Grace Aged Care Facility
- induction and orientation
- organisational policy

All worker information is collected and currency of records maintained to ensure legislative and regulatory requirements are met.

This includes but is not limited to:

- worker criminal record check (attended every three (3) years by Lady of Grace Aged Care Facility)
- current registration records for Enrolled and Registered Nurses
- Training and in-services including internal education
- Performance appraisals
- Complaints and feedback
- changes in personal information: address, bank accounts for payroll
- health/immunisation status
- workplace accidents/incidents
- worker's compensation claims

Lady of Grace Aged Care Facility generally does not disclose resident or worker information for purposes of direct marketing.

Exceptions exist where Lady of Grace Aged Care Facility may disclose personal information of residents and workers for purposes of direct marketing. This may occur through use of images of residents and workers only after consent has been provided by the individuals and/or their person responsible. Lady of Grace Aged Care Facility enhances its image and reputation through photographs uploaded to the Lady of Grace Aged Care Facility Web site and organisational publications.

## **Integrity of Personal Information**

Lady of Grace Aged Care Facility endeavours to collect individual's personal information that is correct, accurate, complete, current and relevant.

Information collected, utilised and disclosed under APPs and legislative requirements reflects on Lady of Grace Aged Care Facility as an organisation and quality of service provision. Wherever possible, residents and /or their person responsible and workers are advised of the need to maintain integrity of personal information.

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## **Protection of Personal Information**

Lady of Grace Aged Care Facility maintains a common law duty that confidentiality exists between the resident, the organisation and the worker.

Personal information is protected from misuse, unauthorised disclosure and access through secure storage of information and destruction of information when not required by law.

No personal information of residents or workers is discussed in common areas and public areas or with any person who is not involved in the care of resident or supervision of worker.

No personal information is to be photocopied unless a copy is required by Lady of Grace Aged Care Facility as a breach of privacy is likely to increase.

Anonymity of residents and workers is maintained at all times during research activities and presentations.

### Residents

No resident personal information is discussed with the resident's person responsible or other relatives by any worker other than the Registered Nurse, Lady of Grace Aged Care Facility Management or allied health professional.

No resident personal information is provided over the phone unless:

- the caller is verified through previous consultation; and
- the caller is identified as resident's person for notification

In case of failure of notification of resident's person responsible, a message may be left with the name of the person who made the phone call, organisation and request to return the phone call. No personal message is to be left on voice messages.

Any personal information that requires the communication to be faxed must occur only in legally required circumstances. Confidentiality and privacy of resident personal information must be assured by informing the recipient of incoming fax.

### Worker

All worker personal information is protected by location and its storage.

Personal information available to Registered Nurse in charge is a list of workers' phone numbers to be used only to replace workers for upcoming shifts.

The list with worker phone numbers is stored in a locked cupboard at the nurses' station on each level in a locked filing cabinet.

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## **Access to Health Care Records/Personal Records**

All residents and workers have a general right to request access to their personal information and health records held by Lady of Grace Aged Care Facility.

### Residents and/or their person responsible

Access to resident's records is restricted to workers of Lady of Grace Aged Care Facility and allied health professionals who are involved in the provision of care or a service to resident.

Residents and/or their representatives can request access to their information under the Freedom of Information Act 1982 and Health Records and Information Privacy Act 2002.

Resident's handbook, provided to the resident upon admission, outlines the resident right and /or their person's responsible right to access resident's health care record and the process.

Resident and/or their person responsible may by written application to Director of Nursing at Lady of Grace Aged Care Facility, request access to resident's health care record. The written request must clearly state the following

- name of the person making the request
- address of person making the request
- identify health information sought prior to any access of resident's health care records under Section 26, Health Records and Information Privacy Act 2002.

The Director of Nursing however may refuse a request of resident and/or their person responsible for access to their health care record if:

- the medical practitioner advises that their request should be refused,
- serious threat exists to health and safety of the individual or public,
- access is frivolous or vexatious,
- access has an unreasonable impact on privacy of other people,
- information is related to upcoming or existing legal proceedings,
- it is not legal,
- access is denied under legislative or tribunal order
- access reveals intentions of organisation in relation to negotiation with the individual that would harm the negotiations,
- the action or outcome is prejudicial to the resident's physical or mental health.

The Director of Nursing must provide a refusal to give access to the personal information in writing to the applicant with the following:

- reason for refusal of access to resident's personal information
- an explanation of commercially sensitive decision
- available mechanisms of complaint
- any other matter set out by legislation

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Application for access to resident's health care records will be stored in the resident's health care records.

Any inconsistencies or inaccuracy in the health care record may be requested to be corrected by the resident and/ or their person responsible

The resident's and/or their person responsible is required to lodge a written request to the Director of Nursing to change health information and include the following:

- state the name of the resident and/or person responsible,
- address,
- identify information that is inaccurate, out of date, irrelevant, incomplete or misleading information in resident's health care record.

The request will be reviewed by the Director of Nursing and changes will be amended or refused.

If satisfied that information in resident record is inaccurate, out of date, irrelevant, incomplete or misleading, then health record will be amended with the copy of request and amendment attached to resident health care record.

If the request provides information that is inaccurate, out of date, irrelevant, incomplete or misleading, then changes to resident health care will be refused under Section 34 of the Health Records and Information Privacy Act 2002.

The Director of Nursing must provide a refusal to correct personal information in writing to the applicant with the following:

- reason for refusal of access to resident's personal information
- available mechanisms of complaint
- any other matter set out by legislation

The Director of Nursing responds to requests to access or change resident health care record within 45 days of request received.

Lady of Grace Aged Care Facility does not charge any fee for accessing or requesting change of personal information.

## Worker

Access to worker's personal records is restricted to Lady of Grace Aged Care Facility Management and Administration only.

A worker has a right to access their personal records and obtain a copy of any document on site post consultation with the Director of Nursing.

A worker may provide an amendment to the current information that is inaccurate, out of date, irrelevant, incomplete or misleading; upon consultation with the Director of Nursing.

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## **Media and Mail and Internet Use**

### Mail

All incoming mail via post is collected and opened by administration staff. A stamp with the date of opening is stamped prior to distribution of mail.

All mail addressed to the residents is opened by the resident or their person responsible.

No personal information is sent by email. All mail of sensitive nature are sent in a sealed envelope, addressed to an individual and marked as 'private and confidential'.

### Media

No information regarding organisation, worker or residents or any other stakeholder is to be disclosed by a worker to the media.

All media requests are directed to the Director of Nursing for consideration or action.

### Social Networking Services

No personal information or photographs regarding residents and workers is to be disclosed, discussed or shared on social networking services such as: Facebook, Twitter, LinkedIn, Pinterest, Google Plus, Tumblr, Instagram, VK, Flickr, Vine, Meetup, Tagged etc.

### Website

Lady of Grace Aged Care Facility maintains a Web site for business promotion and information regarding service provision.

Lady of Grace Aged Care Facility ensures information on the Web site is current and easy to understand by visitors.

The Web site provides another option for general public to send enquiries regarding aged care services and placement.

Consent is obtained for use of photographs of residents and workers prior to image use.

Form is completed by resident if able to do so or resident's person responsible. The form "Consent for Use of Photographic Images" may be revoked at any time.

## **Online Data and Use**

Lady of Grace Aged Care Facility website exists for information purposes only. The website does not collect any information about user activity and pages visited. Our pages located at [www.ladyofgrace.org.au](http://www.ladyofgrace.org.au) are for enhancing and promotion of our image and information regarding services we provide.

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## **Storage of Records**

All personal information regarding residents and workers are securely stored to prevent misuse, loss and unauthorised access when not in use.

### Residents

All clinical records relating to current residents are securely locked in the cupboard, filing cabinet on each level. Medication charts are stored in locked Treatment Room.

All financial information for billing is stored on a password protected computer and invoices paid in locked room at the back of the Administration Office.

All clinical records of residents who have been discharged from the facility are stored securely in the archive area room adjacent to Education Room on Level B for 7 years.

### Worker

Personal information stored on paper, which are stored at the rear of administration office and office of Director of Nursing.

The information relating to accounts and payroll is stored electronically on a password protected computer in the administration office.

All data is backed up on an external drive and is removed from the premises by the Director of Nursing for the night.

All workers records relating to current workers are securely stored in the filing cabinet in locked storage room rear of the Administration office

All worker records relating to separated staff are securely stored securely in the archive area room adjacent to Education Room on Level B for 7 years.

## **Disposal of Records**

Lady of Grace Aged Care Facility maintains a central area for unwanted documentation that may contain resident, worker or sensitive organisational information.

A shredder is used to dispose of unwanted records or documentation with sensitive information relating to stakeholders.

The Maintenance Manager annually disposes of resident and worker records by shredding these in a manner that is safe and preserves confidentiality of the information.

All records relevant to residents and workers are the property of Lady of Grace Aged Care Facility.

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## **Authorised Disclosure**

All personal information regarding resident or worker may be disclosed without consent of the individual in circumstances required by law.

This includes but is not limited to the following situations:

- when an obligation exists to report to NSW Department of Health or Public Health unit in cases for elder abuse or infectious disease outbreak
- justification of funding and service provision when the funding body requests resident health care records
- when there is a serious threat to individual, resident, worker, volunteer or visitor. Director of Nursing or Registered Nurse in charge to determine level of risk before taking action
- where there is a need for an external authority or agency to carry out investigation relating to complaint by Health Care Complaints Commission or NSW WorkCover.
- when an obligation exists regarding criminal offense under the Crimes Act 1900 to notify police law enforcement agency about drug trafficking, serious assaults or murder and manslaughter;
- where an obligation exists under the Coroners Act 2009 (NSW) to notify the coroner of deaths occurring under certain conditions. Lady of Grace Aged Care Facility must provide health care records for post mortem exam.

Law enforcement agency refers to:

- NSW Police,
- Australian Federal Police,
- NSW Director of Public Prosecutions,
- NSW Crimes Commission,
- Australian Crime Commission and
- NSW Department of Corrective Services

## **Availability of Privacy and Confidentiality Policy**

Lady of Grace Aged Care Facility provides free access to this policy online at [www.ladyofgrace.org.au](http://www.ladyofgrace.org.au).

For further information or concerns regarding any aspect of this policy please refer to Privacy Officer.

Links to external third party websites are not covered by this policy and should have their own privacy statements.

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## **Complaints**

Residents and/or person responsible and workers are informed regarding the complaints handling mechanisms or provision of feedback regarding information handling process on admission or upon gaining employment.

Any feedback, concern or complaint relating to information handling should be directed to Lady of Grace Aged Care Facility representatives and management.

All complaints, feedback and concerns are taken seriously, treated fairly and honestly.

Lady of Grace Aged Care Facility strives to manage all complaints internally in a timely manner.

All concerns regarding Privacy Policy are to be referred to:

<b>Lady of Grace Aged Care Facility Privacy Officer</b>	
Name:	Bob Carabetta
Street Address:	454 Old Northern Road, DURAL 2158
Email:	<a href="mailto:logadm@bigpond.net.au">logadm@bigpond.net.au</a>
Phone:	(02) 9634 1354

### Responsibilities of Privacy Officer include:

- Assist in facilitating compliance with privacy legislation at Lady of Grace Aged Care Facility
- First point of contact regarding Privacy related matters
- Representative of Lady of Grace aged Care Facility to external bodies and agencies such as Department of Health and Ageing
- Ensure that all complaints are dealt with confidentially
- Provide updated training on privacy matters and issues to workers

If an individual feels that their complaint has not been addressed or managed satisfactorily, the complaint can be forwarded to:

<b>The Office of the Australian Information Commissioner</b>	
Website	<a href="http://www.oaic.gov.au">www.oaic.gov.au</a>
Postal Address:	GPO Box 5218 Sydney NSW 2001
Street Address:	Level 3, 175 Pitt Street, Sydney 2000
Email:	<a href="mailto:enquiries@oaic.gov.au">enquiries@oaic.gov.au</a>
Phone:	1300 363 992

# *Lady of Grace Aged Care Facility*

## Definitions:

Term	Definitions
Consent	Refers to giving of permission to do something. Consent can be expressed or implied but it must be voluntary.
Disclosure	Refers to an action of making new information available or known
Frivolous	Refers to superficial, light hearted, without serious purpose
Health care record	Refers to the documented account of resident's health status, progress, treatment and outcomes to intervention during service provision or interaction at Lady of Grace Aged Care Facility. Health care record is a form of communication between all workers involved in resident's care. It is also used for facilitating resident care, funding, audits, research and complaint investigations.
Prejudicial	Refers to anything that is causing harm to someone or something
Resident	Person receiving care services
Solicited	Refers to asking someone for something, or requested. Solicited information refers to Lady of Grace Aged Care Facility making a request or asking another organisation or individual about provision of personal information
Stakeholder	Any person who has an interest, involvement or investment in the organisation i.e. residents and their family and friends, workers and management, governments that provide funding, other service providers (e.g. doctors, podiatrist, optometrist)
Unsolicited	Not asking for something. Unsolicited information refers to Lady of Grace Aged Care Facility not making a request or being given personal information from an organisation or individual.
Vexatious	Dealing with something with difficulty, or causing upset or anger
Worker	Any person conducting work for a PCBU. A worker can be an employee, trainee, volunteer, apprentice, work experience student, sub-contractor, contractor, employee of contractor.

## **DOCUMENT VERSION CONTROL**

The following table is to record any amendments made to this document.

VERSION NUMBER	DATE OF REVIEW	BRIEF DESCRIPTION OF CHANGE