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**The Royal Australasian College of  
Physicians' submission to the Medical  
Council of New Zealand**

Maintenance of Patient Records  
August 2019

## Introduction

The Royal Australasian College of Physicians (RACP) welcomes the opportunity to submit feedback on the Medical Council of New Zealand's (Council) updated Statement on the maintenance and retention of patient records (the Statement).

The RACP works across more than 40 medical specialties to educate, innovate and advocate for excellence in health and medical care. Working with our senior members, the RACP trains the next generation of specialists, while playing a lead role in developing world best practice models of care. We also draw on the skills of our members, to develop policies that promote a healthier society. By working together, our members advance the interest of our profession, our patients and the broader community.

### Key points

- The RACP supports the statement and the additions Council has proposed
- Updated sections on patients' recording of consultations is welcomed, considering the evolution in technology capability since 2008
- Expansion of several sections including the first section on maintaining patient records is positive.

#### 1. Are there any changes we should make to the introduction section?

The RACP supports the reference to the Health Information Privacy Code under the Privacy Act 1993 included in the introduction section. This provides the regulatory context for the Statement.

#### 2. Are there any changes we should make to 'Maintaining patient records'?

The RACP has not identified any additions to the section "Maintaining patient records." We note that although not all health practitioners will consider organ donor status, next of kin, Enduring Power of Attorney and Health Passport as relevant, these are important points of consideration in clinical decision making, and shared decision-making with the patient and whānau. Where people have a long-term, continued relationship with a health service (such as a general practice), recording a person's organ donor status could be an important record of the patient's wishes, especially if the person has no driver's license.

#### 3. Are there any changes we should make to the section on 'Audio or video recording'?

### **Consent**

The RACP notes that covert recording is permitted under New Zealand law. A patient or whānau member may record a clinical encounter without the medical practitioner's consent, and while the Office of the Privacy Commissioner states covert recording is difficult to justify under the Privacy Act, it is not illegal to do so. This will be different from other jurisdictions overseas and overseas-trained medical practitioners may be unaware they can be recorded in clinic or in hospital without their permission.

Matters of consent for all parties (patient, medical practitioner/s and whānau) should be explicitly stated in the section itself or as a footnote.

### **Recording of appointments by telehealth**

As technology is increasingly integrated into clinical practice, virtual clinics via telehealth portals and mobile apps are more commonplace. Many platforms will enable recording of video and/or audio, and

standards to safely store and secure recordings should be developed. Further, the responsibility and accountability for recordings and retaining these files should be clearly understood.

#### **4. What changes, if any, should we include in the section on 'Practice systems'?**

The RACP welcomes the addition of a section on practice systems and the importance of effective systems to enable patient follow-up, including recall and delivery of test results. Although the RACP acknowledges that each practice or clinic will operate differently, "timely follow-up" could be found to be overly vague to patients or create unnecessary confusion where the reason for the delay is out of the medical practitioner's control.

#### **5. Are there any other changes we should make to the section on 'Accessing patient records'?**

Patients wishing to access records held about them are encouraged to make their request in writing; this should include email communications as an acceptable form of "written request".

#### **6. Please provide any feedback you would like to consider on the section 'How long should private hospitals and doctors in private practice keep patient records'?**

The RACP supports Council's recommendation that records of children with complex health needs and long-term conditions, and patients with chronic conditions, or who may require ongoing treatment and management should be retained for longer than the minimum prescribed by the Health (Retention of Health Information) Regulations 1996.

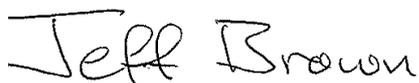
#### **7. Are there any other changes we should make to the section on 'Leaving a practice/and or Planning for retirement'?**

The RACP has no further suggestions for this section. We do support, however, that Council emphasises secure document destruction processes (such as those offered by document disposal companies) as a preferred method of secure disposal to burning patient records.

## **Conclusion**

The RACP thanks Council for the opportunity to provide feedback on its revised "Statement on the maintenance and retention of patient records". If you would like to discuss this submission further, please contact the Policy and Advocacy Unit at [policy@racp.org.nz](mailto:policy@racp.org.nz).

Naku noa, na



Dr Jeff Brown FRACP  
Aotearoa New Zealand President  
**The Royal Australasian College of Physicians**