



## Consent and the handling of personal information in your eHealth record

Updated September 2014

One of the defining features of Australia's personally controlled electronic health (eHealth) record system is that it is an opt-in system. That means that you must consent to having an eHealth record before one can be established.

When you register for an eHealth record you are asked to consent to having your health information uploaded to your eHealth record. However, further consent may need to be sought in some circumstances before specific information can be uploaded.

This fact sheet sets out what you are consenting to when you register for an eHealth record, and in what situations further consent may need to be sought. It also discusses the meaning of consent.

### The eHealth record system

You can choose to register for an eHealth record. This record is designed to contain an electronic summary of your key health information such as prescribed medications, allergies and treatments you have received. Healthcare providers can upload health information to your eHealth record and view the information in it.

You can control who has access to your eHealth record, what information they can see and what records are uploaded by establishing access controls on your eHealth record. You should also talk to your healthcare provider about the type of information you do and do not want uploaded to your record.

More information about the eHealth record system can be found at [www.ehealth.gov.au](http://www.ehealth.gov.au).

### The role of the OAIC

The Office of the Australian Information Commissioner (OAIC) is the independent regulator of the privacy aspects of the eHealth record system.

### What are you consenting to?

When you register for an eHealth record, you are required to give a standing, or ongoing consent to

records containing your health information being uploaded to your eHealth record by registered healthcare provider organisations involved in your care.

This is subject to two important exceptions:

- where you have told your healthcare provider that a particular record, all records, or a specific class of records must not be uploaded
- where certain laws of a State or Territory require that consent to upload particular health information be given expressly or in a particular way.

When registering for an eHealth record, you will also be asked whether you consent to the inclusion of certain types of Medicare information. For more information, please see [Privacy fact sheet 22 — Medicare and your eHealth record](#).

If you want to restrict a particular record, all records or a specified class of records from being included in your eHealth record, you should discuss this issue with your healthcare provider.

You can exercise further control over your eHealth record, such as controlling which registered healthcare provider organisations have access to your eHealth record, by changing your privacy settings, known as

'access controls' — for more information please see [Privacy fact sheet 19: How to manage your eHealth record](#).

## State and territory legislation

The eHealth record system recognises that under some state and territory laws consent must be given expressly, or in a particular way, before information related to specific areas of health is disclosed.

Such specific areas of health include, depending on the relevant State or Territory, notifiable conditions such as HIV/AIDS status, information which relates to a cancer diagnosis, and information in the National Perinatal Statistics Collection.

Unless specified at 3.1.1 of *Personally Controlled Electronic Health Regulation 2012* a healthcare provider may rely on the standing consent provided on registration.

## Providing consent

- When you register for an eHealth record, you are required to give a standing consent for the upload of documents to your record as a condition of registration. For your consent to be valid, four key elements should be satisfied: you must be adequately informed before giving consent
- it must be provided voluntarily
- it must be current and specific
- you must have the capacity to understand and communicate your consent.<sup>1</sup>

If you are considering whether or not to register for an eHealth record you should consider what it means to 'consent' to information being uploaded to your eHealth record. It is important for you to educate yourself about the eHealth system, including what sort of personal information may be stored on a record and who can access it. If there are specific records that you do not want uploaded to your eHealth record, you

should tell your healthcare provider not to upload the records, and they must not do so. If you do not say otherwise, you are considered to have consented to the inclusion of information in your eHealth record.

If you change your mind and don't want a document that has been uploaded to your eHealth record to be included in your record, you can:

- restrict access to the document using the advance access control settings on your record
- ask the healthcare provider who uploaded the document to edit or delete it, or
- remove the document yourself by logging in to your record.

## More information

For more information on protecting your privacy on the eHealth record system, please see the OAIC's [Ten tips for protecting the personal information in your eHealth record](#).

### For further information

**telephone:** 1300 363 992

**email:** [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

**write:** GPO Box 5218, Sydney NSW 2001

Or visit our website at [www.oaic.gov.au](http://www.oaic.gov.au)

<sup>1</sup> For more information see Office of the Australian Information Commissioner, '[Key Concepts](#)', [Australian Privacy Principles Guidelines](#), March 2014