

Direction under section 62(1) of the *Health Records and Information Privacy Act 2002* (NSW) in relation to the Single Digital Patient Record

As Privacy Commissioner appointed under Part 4, Division 1 of the *Privacy and Personal Information Protection Act 1998* (NSW) I, Sonia Minutillo, hereby direct pursuant to section 62(1) of the *Health Records and Information Privacy Act 2002* (NSW) (**HRIP Act**) that:

1. Overview

This is a Direction made section 62(1) of the HRIP Act to enable the operation of the Single Digital Patient Record (**SDPR**) in NSW. It should be read in conjunction with the HRIP Act.

2. Background

The NSW public health system is the largest in Australia and delivers safe, high-quality and compassionate healthcare to the people of NSW.

An individual's patient journey can traverse multiple organisations within the NSW public health system. One of the aims of the NSW public health system is to provide a high standard of seamless and safe care to members of the public and this requires robust and secure health information systems. However, current processes and systems in the NSW public health system can create challenges for staff and patients in relation to the sharing of health information.

In particular within the NSW public health system there are currently a number of different electronic medical record systems (**eMRs**), patient administration systems (**PAS**) and laboratory information management systems (**LIMS**) in use (together the '**Legacy Systems**').

It can be difficult for staff within one organisation in the NSW public health system to quickly access comprehensive and relevant information about a patient's prior care from a different public health organisation. Whilst there is some ability to access the records of other facilities within the Legacy Systems, clinicians are often required to manually request patient information from other public health organisations. As a result, patient health information is often unable to be efficiently shared across facilities or integrated in real time. This can create information gaps and affect patient care.

Justice Health and Forensic Mental Health Network (**Justice Health NSW**), being a statutory health corporation, is primarily responsible for providing health services to custodial patients of correctional centres. However, some correctional facilities are managed by private operators (**Managed Correctional Centres**) where health services may be provided by private providers (**Correctional Private Providers**).

Justice Health NSW has a number of statutory functions conferred on it by section 236A of the *Crimes (Administration of Sentences) Act 1999* (NSW), including but not limited to 'to provide health services to offenders and other persons in custody', 'to monitor the provision of health services in managed correctional centres', and 'to keep medical records of offenders and other persons in custody'.

To ensure the best possible outcomes for custodial patients it is important that healthcare information is accessible in respect of the custodial patient regardless of where they are receiving health services. Further, Justice Health NSW requires oversight of this healthcare information to execute its statutory functions in relation to monitoring the provision of health services in Managed Correctional Centres, and the keeping of medical records of health services provided to all custodial patients.

The importance of timely sharing of accurate health information about custodial patients has been emphasised in a number of Coronial decisions. As such, Correctional Private Providers at Managed Correctional Centres will be onboarded to the SDPR to allow for health information about a custodial patient to be appropriately shared between treating clinicians regardless of where the custodial patient is located.

The SDPR will transform how people experience and deliver public health care within the NSW public health system and Managed Correctional Centres. The SDPR will provide benefits for the patients and the workforce of the SDPR Agencies regardless of their location.

The SDPR will unify access to patient health information by creating a consolidated primary eMR, PAS and LIMS in respect of a patient's interactions with SDPR Agencies. Subject to technological, contractual, policy and/or other relevant controls, the SDPR will give clinicians real-time access to patient information recorded by SDPR Agencies, enabling clinical teams to make informed decisions promptly and improving health services and clinical safety to patients.

The SDPR will be implemented within the SDPR Agencies across five tranches, between March 2026 and 2028.

3. The SDPR

For the purpose of this Direction, the SDPR is taken to consist of the SDPR Platform and the Archive System.

To support the implementation of the SDPR:

- (a) Relevant patient information (including contact information, demographic information and health identifiers) from select Legacy Systems of SDPR Agencies has been used to create a Master Patient Index (**MPI**) in the SDPR.
- (b) Pre-defined critically relevant health information from select Legacy Systems of SDPR Agencies, including patient encounter information and clinical and operational data, will be migrated to the SDPR Platform and matched with patients' MPI identifiers.
- (c) Select Legacy Systems of SDPR Agencies will be archived in full in the Archive System. Select health information from the archived Legacy Systems will be matched with patients' MPI identifiers and the Archive System will be directly accessible to SDPR Agency Staff from the SDPR Platform, subject to any technological, contractual, policy and/or other relevant controls.

Once the implementation of the SDPR is complete:

- (a) SDPR Agency Staff will record patient health information on the SDPR Platform. This will be subject to limited exceptions, which involve the recording of information in other systems or in paper records.
- (b) Subject to any technological, contractual, policy and/or other relevant controls, patient health information will be accessible to SDPR Agency Staff via the SDPR.
- (c) The SDPR Platform will become the SDPR Agencies' primary eMR, PAS and LIMS system. An important privacy consequence arising from this is that a patient's health information

contained within the SDPR will be accessible to all SDPR Agencies that have access to that patient's record, subject to limited exceptions.

Among other things, as a single record of a patient's interactions with the SDPR Agencies, the SDPR will involve:

- (a) Indirect collections of health information where a SDPR Agency is able to access health information directly collected by another SDPR Agency,
- (b) As a result of the above, SDPR Agencies holding health information that they did not directly collect,
- (c) Centrally managed infrastructure and control by NSW Health of data retention and disposal practices in relation to health information recorded on the SDPR,
- (d) SDPR Agencies using health information recorded on the SDPR to provide patients with health services and for other permitted purposes under the HRIP Act, and
- (e) Disclosures of information between SDPR Agencies by virtue of recording health information on the SDPR.

4. Interpretation

In this Direction:

Affiliated health organisation (AHO) means an organisation or institution that is an affiliated health organisation under section 62 of the *Health Services Act 1997* (NSW). An organisation or institution is an affiliated health organisation only in relation to any of its recognised establishments or recognised services. An AHO is part of the NSW public health system and a public health organisation.

Archive System means the archiving platform used to archive health information from Legacy Systems and currently provided by RLDatix Galen Australia Pty Ltd.

Collects or collection means to gather, acquire or obtain health information.

Correctional Private Provider means an organisation that does not form part of the NSW public health system or constitute a public health organisation, that provides health services at a Managed Correctional Centre.

Directly collects or direct collection means a SDPR Agency's collection of health information where they are the SDPR Agency to record such information on the SDPR.

Health information has the same meaning as at section 6 of the HRIP Act.

Health service has the same meaning as at section 4 of the HRIP Act.

Holds has the same meaning as section 9 of the HRIP Act. Whether a SDPR Agency holds health information may be impacted by relevant technological, contractual, policy and/or other controls.

HPPs means the Health Privacy Principles set out at Schedule 1 of the HRIP Act.

Indirectly collects or indirect collection means collection of health information by a SDPR Agency following the direct collection of that health information by another SDPR Agency.

Managed Correctional Centre means a correctional centre that is managed by a private operator pursuant to a management agreement with Corrective Services NSW under the *Crimes (Administration of Sentences) Act 1999* (NSW).

NSW Health means the Ministry of Health, Health Administration Corporation, a local health district, a statutory health corporation and the Cancer Institute which together comprise a single entity for the purpose of the HPPs and health privacy codes of practice.¹

NSW public health system has the same meaning as section 6 of the *Health Services Act 1997* (NSW).

Public health organisation has the same meaning as section 7 of the *Health Services Act 1997* (NSW).

SDPR means the Single Digital Patient Record and includes the SDPR Platform and the Archive System.

SDPR Agency means those organisations that are or will be onboarded to the SDPR, being NSW Health, AHOs and Correctional Private Providers.

SDPR Platform means the consolidated primary eMR, PAS and LIMS platform provided by Epic Systems Corporation.

SDPR Purposes, for the purpose of this Direction, are:

- to establish the SDPR;
- to provide health services to current and potential future patients;
- to centrally operate the SDPR; and
- the ongoing management of the SDPR.

Staff includes employees or contractors engaged by a SDPR Agency, or students undertaking clinical placements within a SDPR Agency.

5. Application

5.1. This Direction applies to the collection, access, amendment, use and disclosure of health information by the SDPR Agencies.

5.2. This Direction also applies to the retention of health information recorded on the SDPR.

5.3. This Direction does not affect the operation of any exemption provided under the HRIP Act.

6. Modification of the Health Privacy Principles and Part 4 of the HRIP Act

The application of the HPPs and Part 4 of the HRIP Act is modified as detailed in the table below.

¹ See clause 10 of the *Health Records and Information Privacy Regulation 2022* (NSW).

HPP 1 – Purposes of collection of health information	HPP 1(1) does not apply to the indirect collection of health information by a SDPR Agency for the SDPR Purposes.
HPP 2 – Information must be relevant, not excessive, accurate and not intrusive	There is no intention to depart from HPP 2.
HPP 3 – collection to be from individual concerned	<p>HPP 3(1) does not apply to NSW Health in respect of the indirect collection of health information from another SDPR Agency for the purpose of establishing and centrally operating the SDPR.</p> <p>A SDPR Agency is not required to comply with HPP 3(1) in relation to health information the SDPR Agency indirectly collects via the SDPR.</p> <p>A SDPR Agency is not required to comply with HPP3(2) to the extent that doing so would be inconsistent with this Public Interest Direction.</p>
HPP 4 – individual to be made aware of certain matters	<p>HPP 4(2) does not apply to NSW Health in respect of the indirect collection of health information from a SDPR Agency for the purpose of establishing and centrally operating the SDPR.</p> <p>A SDPR Agency is not required to comply with HPP 4(2) in relation to health information the SDPR Agency indirectly collects via the SDPR.</p>
HPP 5 – Retention and security and Division 2 of Part 4 of the HRIP Act	<p>AHOs and Correctional Private Providers are not required to comply with Division 2 of Part 4 of the HRIP Act and the obligations set out in HPP 5(1)(a) – (b) in respect of health information recorded on the SDPR that they hold via the SDPR or may have held at a point via the SDPR.</p> <p>There is otherwise no intention to depart from HPP 5 in relation to AHOs and Correctional Private Providers. For the avoidance of doubt, there is no intention to depart from HPP 5 in relation to any instances of an individual’s health information held by a SDPR Agency outside of the SDPR.</p>
HPP 6 – Information about health information held by organisations	There is no intention to depart from HPP 6 in relation to health information that is held by a SDPR Agency.
HPP 7 – Access to health information and Division 3 of Part 4 of the HRIP Act	<p>There is no intention to depart from HPP 7 in relation to health information that is held by a SDPR Agency.</p> <p>There is no intention to depart from HPP 7 and Division 3 of Part 4 of the HRIP Act in relation to health information that is held by an AHO or Correctional Private Provider.</p>

<p>HPP 8 - Amendment of health information and Division 4 of Part 4 of the HRIP Act</p>	<p>Subject to the below, a SDPR Agency is only required to comply with HPP 8 in relation to health information recorded on the SDPR that the SDPR Agency directly collected and holds.</p> <p>In the case of health information directly collected by a Correctional Private Provider that is recorded on the SDPR and that the Correctional Private Provider no longer holds, Justice Health and Forensic Mental Health Network is required to comply with HPP 8 if it holds this information.</p> <p>AHOs and Correctional Private Providers are only required to comply with HPP 8 and Division 4 of Part 4 of the HRIP Act in relation to health information recorded on the SDPR that the AHO or Correctional Private Provider directly collected and holds.</p>
<p>HPP 9 – Accuracy</p>	<p>NSW Health is not required to comply with HPP 9 when using health information for the purpose of establishing and centrally operating the SDPR.</p> <p>There is otherwise no intention to depart from HPP 9.</p>
<p>HPP 10 – limits on use of health information</p>	<p>Despite HPP 10, NSW Health may use health information collected by a SDPR Agency for the purpose of establishing and centrally operating the SDPR.</p> <p>Despite HPP 10, SDPR Agencies may use health information recorded on the SDPR for the SDPR Purposes.</p> <p>There is otherwise no intention to depart from HPP 10.</p>
<p>HPP 11 – limits on disclosure of health information</p>	<p>Despite HPP 11, a SDPR Agency may disclose health information to NSW Health for the purpose of establishing and centrally operating the SDPR.</p> <p>Despite HPP 11, a SDPR Agency may disclose health information to another SDPR Agency via the SDPR for the SDPR Purposes.</p> <p>There is otherwise no intention to depart from HPP 11.</p>
<p>HPP 12 – Identifiers</p>	<p>Despite HPP 12, AHOs and Correctional Private Providers may adopt an identifier assigned to a patient in the SDPR as its own identifier of the individual.</p>
<p>HPP 13 – Anonymity</p>	<p>There is no intention to depart from HPP 13.</p>
<p>HPP 14 – Transborder data flows and data flows to the Commonwealth</p>	<p>There is no intention to depart from HPP 14.</p>

HPP 15 – Linkage of health records	There is no intention to depart from HPP 15 ²
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7. Duration

- 7.1.** This Direction commences on the date signed by me and has effect up to and including 24 months from the date of this Direction, unless earlier revoked.
- 7.2.** This Direction will be reviewed six months prior to its expiry.

Signed by me on 18 March 2026



Sonia Minutillo
Privacy Commissioner

² As a result of clause 9 of the *Health Records and Information Privacy Regulation 2022* (NSW), the SDPR is not a health record linkage system.