

FACT SHEET: Right to information

It is important to understand that access to either your own or other people's clinical notes and records must have proper authorisation. The legislation and policies around your right to access health records do differ, depending on the workplace.

There are two pieces of privacy legislation that are relevant to the NPAQ's membership:

1. Privacy Act 1988 (Cth) (Privacy Act) - this contains the National Privacy Principles (NPP) which apply to members who work in the private sector i.e. private hospitals, aged care facilities and general practice; and
2. Information Privacy Act 2009 (Qld) (IP Act)- this contains the Information Privacy Principles (IPP) which apply to members who work at Queensland Health and other Queensland Government facilities.

In addition the [NMBA's Code of Conduct for Nurses](#) states that nurses can only access records when they are professionally involved in the care of the person and when authorised to do so - see 3.5: Confidentiality and Privacy.

For those in the public service, the [Code of Conduct For the Queensland Public Service](#) will also be relevant. In particular - Standard 3.1(c) and Standard 4.4(c).

It is important you understand your employer's policy and "I didn't know" is not a suitable defence.

Importantly, patients (including patients who are nurses by profession) do not own their health records. Therefore, you must still apply for access to your own records/personal information. For example, under [IPP 6](#) and [NPP 6](#), where an agency (i.e. employer) has control of a document containing personal information, it must give the subject of the information access to the document if they ask. Chapter 3 of the IP Act gives an individual the right to apply for access to documents containing their personal information - see:

<https://www.oic.qld.gov.au/guidelines/for-government/guidelines-privacy-principles/access-and-amendment/personal-information-access-and-openness-obligations>

Therefore, a nurse does not have a right to access their own health records without first applying for access, despite their ability to access the record themselves. This is particularly the case if the health record also contains information that would, by giving the nurse access, have an unreasonable impact on the privacy of other individuals, endanger the life, health and safety of an individual or the public or which would be contrary to the public interest (which are valid reasons for denying a request to access one's own health records).

If a nurse wants to access the Queensland health records of someone for whom they are not professionally involved in their care and for whom they do not have consent, a nurse will need to make a Right to Information / Freedom of Information application.

Some websites that provide further information include:

<https://www.oaic.gov.au/privacy/privacy-in-your-state/>

<https://www.oaic.gov.au/privacy/your-privacy-rights/your-personal-information/access-your-personal-information/>

<https://www.oaic.gov.au/privacy/australian-privacy-principles-guidelines/chapter-12-app-12-access-to-personal-information/>

<https://www.oic.qld.gov.au/guidelines/for-government/guidelines-privacy-principles/access-and-amendment/basic-guide-to-ipps-5-7-access-and-amendment>

<https://www.oic.qld.gov.au/guidelines/for-community-members/information-sheets-access-and-amendment/accessing-my-medical-records:>