

Position Statement Supplement:

My Health Record and young people's rights to confidentiality: guidance for health services and young people aged 14 – 17 years

This Position Statement is a supplement to the AAAH Position Statement published on [20 July 2018](#), as the opt-out period approaches its end (15 November 2018)

- ❖ The AAAH calls for the federal government to implement Recommendation 2 of the Senate Standing Committee on Community Affairs prior to the end of the My Health Record opt-out period. Recommendation 2 states:

The committee recommends that the Australian Government amend the My Health Records Act 2012 to protect the privacy of children aged 14 to 17 years unless they expressly request that a parent be a nominated representative.¹

- ❖ The AAAH calls for an extension of the opt-out period to allow enactment of the above recommendation.
- ❖ The AAAH calls for organisations training current and future health professionals, and those providing professional development to all health professionals who work with young people, to ensure that young people's rights to confidential health care are maintained. This may involve having conversations with young people and their parents or carers about access to their My Health Record.
- ❖ The AAAH calls for educators of young people, such as teachers, health promotion staff and peer educators, to proactively inform young people of changes to the way health information among health services is going to be shared due to the My Health Record rollout
- ❖ The AAAH calls for health services and health professionals to proactively inform all young people about My Health Record and their right to confidentiality, and to encourage and/ or directly support young people to become familiar with the My Health Record site

Rationale

Confidentiality is a foundational principle of best practice in adolescent health care. Nevertheless, most young people value the support of parents and carers for managing their health. As young people become increasingly responsible for managing their own health, they choose how much information to share with parents, carers or others. The timing of this shift varies, but can begin as young as the early teenage years. Australian law recognises this as the 'mature minor' principle, which states that a person aged less than 18 years can consent to their own medical treatment as long as the health professional believes them to be competent to do so. People aged under 18 years are also legally entitled to confidentiality

¹ The Senate Community Affairs References Committee. Final Report: My Health Record system, 18 October 2018, © Commonwealth of Australia 2018, ISBN 978-1-76010-848-9

Australian Association for Adolescent Health Ltd



in health care unless the law requires a provider to break this (such as for child protection issues).

The current opt-out period is due to end on 15 November 2018. This should be extended to allow the necessary amendments to the My Health Records Act 2012 as per Recommendation 2 of the Senate Committee report. If this is not achieved, AAAH provides the following guidance to health services in relation young people, especially those aged 14 – 17 years:

- Attend appropriate training provided to health professionals and services to ensure full understanding of health professionals' roles, activities and responsibilities in My Health Record management
- Routinely enquire with all young people (12 – 24 years) whether they know about My Health Record, including whether they/ their parent/carer have opted out, opted in or made choices about privacy and control settings
- Offer assistance to any young person to navigate the My Health Record site and their settings should they wish
- For young people aged 14 – 17 years, engage in an in-depth discussion about My Health Record and the current legislation that will automatically give control of the MHR to parents/ legal guardians.
- Explain to young people aged 14 – 17 years that they have the right to take control of their own My Health Record and can still nominate a parent or guardian to be an authorised representative (which will allow them access). It might be helpful to show them the information on this webpage: <https://www.myhealthrecord.gov.au/for-you-your-family/howtos/take-control-your-record-age-14>
- Explore the views of those aged 14 – 17 with regard to discussing their health, health care and My Health Record with their parent/s or guardian/s.
- Routinely display and/ or provide information about My Health Record to all young people, including Factsheets published by the Australian Digital Health Agency and links to the My Health Record website
- Explain that some information will automatically be uploaded unless the young person specifically asks a provider not to do so (e.g. pathology results, e-prescriptions, hospital discharge summaries). Explain that they can discuss what information will be uploaded at every encounter with a health professional or service.
- Routinely discuss what the young person (of any age) would and would not like uploaded into their My Health Record as it pertains to your encounter with them
- Raise these issues with parent/s and guardian/s also and explain that this can be an opportunity for useful discussions between them and their adolescent children about balancing the need for openness and confidentiality in supporting their adolescent's health
- Document discussions you have with young people about My Health Record and share these with them, so that they are confident that their wishes and needs have been understood

Endorsed by the [AAAH Board of Directors](#) 5 November 2018