



## 1.24 Privacy and Confidentiality Policy and Procedure

### PURPOSE

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The purpose of this policy and procedure is to set out staff responsibilities relating to collecting, using, protecting and releasing personal information in compliance with privacy legislation.

### POLICY

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Privacy and confidentiality are of paramount importance to TripleCN Nursing Agency. The Quality Improvement Team recognises the importance of protecting the personal information of individuals. Consumer privacy and confidentiality is cherished and protected by TripleCN Nursing Agency. Consumers have the right to decide who has access to their personal information.

TripleCN Nursing Agency will collect, use and disclose information in accordance with relevant state and federal privacy legislation. All staff are responsible for upholding TripleCN Nursing Agency's privacy and confidentiality responsibilities.

TripleCN Nursing Agency will only collect information necessary for safe and effective service delivery. It will only use information collected for the purpose it was collected and secure it appropriately. Information related to consumers will not be released to other individuals or services without informed consent from the consumer or their representative, or in exceptional circumstances.

### SCOPE

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This policy and procedure applies to all:

- TripleCN Nursing Agency staff
- aspects of TripleCN Nursing Agency business; and
- staff and consumer personal and health information.

This policy and procedure should be read in conjunction with *TripleCN Nursing Agency's Records and Information Management Policy and Procedure*.

### DEFINITIONS

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**Personal Information** - Information or an opinion that identifies an individual. Examples of Personal Information we collect include: names, addresses, email addresses and phone numbers.

**Sensitive information** - A type of Personal Information that is an opinion about an individual's racial or ethnic origin, political opinions, membership of a political association, religious or philosophical beliefs, membership of a trade union or other professional body, sexual preference or practices or criminal record.

**Health information** – A type of Sensitive Information that is information or an opinion about the physical, mental or psychological health or ability of an individual.



## PROCEDURE

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### TripleCN Nursing Agency Responsibilities

The Operations Manager is responsible for:

- Ensuring TripleCN Nursing Agency complies with the Health Records Act 2001, the Privacy and Data Protection Act 2014 and, where applicable, the Privacy Act 1988 by developing, reviewing and implementing processes and practices that identify:
  - what information TripleCN Nursing Agency collects about individuals, and the source of the information;
  - why and how TripleCN Nursing Agency collects, uses and discloses the information;
  - who will have access to the information; and
  - risks in relation to the collection, storage, use, disclosure or disposal of and access to personal and health information collected by TripleCN Nursing Agency.
- Immediately notifying the relevant state government agency if they become aware of a breach or possible breach of privacy legislation;
- Ensuring consumers and/or their representatives know why information is being collected and how it will be protected, used, disclosed and disposed of; and how they can access it;
- Providing adequate and appropriate secure storage for personal information collected by the service (see TripleCN Nursing Agency's *Records and Information Management Policy and Procedure*);
- Developing procedures that will protect personal information from unauthorised access;
- Ensuring the appropriate use of images of consumers, including being aware of cultural sensitivities and the need for some images to be treated with special care;
- Ensuring all staff are provided with a copy of this policy and procedure;
- Ensuring all consumers, representatives, and other relevant stakeholders are provided with the service's easy-to-read Privacy Statement and informed that a copy of the complete policy is available on request;
- Ensuring TripleCN Nursing Agency's Privacy Statement is prominently displayed at the service and included in TripleCN Nursing Agency's Handbook, and that a copy of this policy and procedure is available on request; and
- Ensuring TripleCN Nursing Agency's arrangements for maintaining privacy and confidentiality are reviewed annually through a privacy audit.

The Quality Management Team is responsible for:

- Assisting the Operations Manager to implement this policy and procedure;
- Reading and following this Privacy and Confidentiality Policy and Procedure;
- Ensuring all key positions (or delegates) are provided a copy of this policy and procedure and that they complete TripleCN Nursing Agency's Declaration of Confidentiality;
- Ensuring all signed Declarations of Confidentiality are retained in the relevant staff record;



- Ensuring all staff maintain up-to-date understanding of their privacy, dignity and confidentiality responsibilities through formal induction and ongoing training and team meetings;
- Ensuring improvements identified in this area, including through staff and consumer feedback, are actioned through TripleCN Nursing Agency's Continuous Improvement Plan;
- Monitoring staff knowledge and application of confidentiality and privacy principles on-the-job and through yearly Performance Reviews; and
- Providing additional on-the-job and formal training to staff where required.

TripleCN Nursing Agency staff are responsible for:

- Reading and following this Privacy and Confidentiality Policy and Procedure;
- Ensuring they are aware of their responsibilities in relation to the collection, storage, use, disclosure and disposal of personal and health information;
- Collecting, handling, storing, using, disclosing and disposing of clients' personal and health information in accordance with state and federal legislation and this policy and procedure;
- When collecting personal information from clients, or their representative, or other stakeholders:
  - confirming TripleCN Nursing Agency's commitment to maintaining their privacy and confidentiality and the occasions when personal information may need to be released;
  - explaining why information is being collected and how it will be used;
  - explaining consumers' right to decline providing information;
  - explaining consumers' rights in terms of providing, accessing, updating and using personal information, and giving and withdrawing consent;
  - advising to whom (or the types of individuals or organisations to which) their information may be disclosed;
  - advising the main consequences (if any) for the individual if all or part of the information is not provided;
  - obtaining consent from the consumer or their representative, using a Consent Form where required;
  - collecting information sensitively and within lawful limits; and
  - ensuring information is only collected for a specific purpose and limiting the use of the information to the purpose for which it was collected.
- Performing the above activities in a way that is sensitive and caters to the cultural and disability background of the person they are dealing with;
- Where clients or their supporters have difficulty communicating, using either an interpreter or advocacy service to ensure that consent is informed;
- Keeping all client records up-to-date and stored securely; and



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- Conducting interviews or sensitive conversations with clients in a private room.

Consumers and/or representatives are responsible for:

- Providing accurate information when requested;
- Maintaining the privacy of any personal or health information provided to them about other individuals, such as contact details; and
- Completing all consent forms and returning them to the service in a timely manner.

## Privacy Principles for APP Entities

The Office of the Australian Information Commissioner for the Australian Government has established 13 high level Privacy Principles for APP entities such as private sector organisations, Australian Government and Norfolk Island agencies covered by the *Privacy Act 1988*.

The principles provide for governance across the following:

- Open and transparent management of personal information (APP 1)
- Anonymity and pseudonymity (APP 2)
- Collection of solicited personal information (APP 3)
- Dealing with unsolicited personal information (APP 4)
- Notification of the collection of personal information (APP 5)
- Use or disclosure of personal information (APP 6)
- Direct marketing (APP 7)
- Cross-border disclosure of personal information (APP 7)
- Adoption, use or disclosure of government related identifiers (APP 8)
- Quality of personal information (APP 10)
- Security of personal information (APP 11)
- Access to personal information (APP 12)
- Correction of personal information (APP 13)

To ensure TripleCN Nursing Agency's full compliance with the Privacy Principles, the Operations Manager together with the Quality Management Team Director will:

- take suitable steps to protect client data;
- establish an initial cybersecurity baseline, consider implementing the Australian Signals Managing Directorate's 'Essential Eight', which are a prioritised list of practical actions organisations can take to make their computers more secure. More detail can be found at: <https://www.asd.gov.au/publications/protect/essential-eight-explained.htm>;
- assess TripleCN Nursing Agency's compliance with the Essential Eight and plan to remediate any identified gaps as soon as practicable;
- subscribe to the 'Stay smart online website' at: <https://www.staysmartonline.gov.au>. This website provides simple, easy to understand advice about smart online behaviour as well as up-to-date information on the latest online threats and how to respond; and

**Client and Family Privacy and Confidentiality**

TripleCN Nursing Agency will only request and retain personal or health information that is necessary to:

- assess a potential consumer's eligibility for a service;
- provide a safe and responsive service;
- monitor the services provided; and
- fulfil contractual requirements to provide non-identifying data and statistical information to a funding body.

**Personal and Health Information TripleCN Nursing Agency Collects**

- Contact details for consumers and guardians, or relevant family member.
- Details for emergency contacts and persons authorised to collect consumers.
- Consumers' health status and medical records.
- Medication records.
- Incident reports.
- Custodial arrangements.
- Consent Forms.
- Service delivery intake, assessment, monitoring and review information.
- Service delivery records, plans, and observations.
- External agency information.

**Access**

Consumer and family information may be accessed by staff with a genuine need to know.

Individuals have the right to:

- request access to personal information TripleCN Nursing Agency holds about them, without providing a reason for requesting access;
- access this information; and
- make corrections if they consider the information is not accurate, complete or up to date.

However, in accordance with the Privacy and Personal Information Protection Act 1998 (NSW), access may be denied in part or in total where:

- the request is frivolous or vexatious;
- providing access would have an unreasonable impact on the privacy of other individuals;
- providing access would be likely to prejudice an investigation of possible unlawful activity;
- providing access would pose a serious and imminent threat to the life or health of any individual; and denying access is required or authorised by or under law.

If an individual requests access to or the correction of personal information, within a service benchmark of 2 working days (and no more than 45 days after receiving the request), staff will: provide access, or reasons for the denial of access;

- correct the personal information, or provide reasons for the refusal to correct the personal information; or
- provide reasons for the delay in responding to the request for access to or correction of personal information.

**Information Storage**



Personal files are kept in a secure filing cabinet in a private room, which is kept locked outside of operational hours. Computerised records are stored safely and secured with a password for access.

Personal files are available for viewing upon request.

## Information Disclosure

Consumer personal and health information will only be disclosed:

- for medical treatment or emergency;
- to outside agencies with the consumers' or guardian or next of kin's permission;
- with written consent from person/s with lawful authority; or
- when required by Commonwealth Law, or to fulfil legislative obligations such as mandatory reporting.

If a staff member is in a situation where they believe that they need to disclose information about a consumer that they ordinarily would not disclose, they should seek the advice of a Management Team member before making the disclosure.

## Reporting client-related privacy breaches

TripleCN Nursing Agency must report all consumer-related privacy incidents to the Information and Privacy Commission within one business day of becoming aware of, or being notified of, a possible privacy incident, or within one business day of an allegation being made of a potential breach. Such incidents should be reported using the Information and Privacy Commission Data Breach Notification Form, available online at <https://www.ipc.nsw.gov.au/privacy/voluntary-data-breach-notification>

A privacy breach that impacts a consumer may need to be reported as a Consumer Incident as per TripleCN Nursing Agency's *Consumer Incident Management Policy and Procedure* as well as through a Data Breach Notification Form.

## Staff Privacy and Confidentiality Personal and Health Information

TripleCN Nursing Agency Collects

- |                                 |  |
|---------------------------------|--|
| ▪ Personal Details              | ▪ Personal Resume                        |
| ▪ Emergency Contact Details     | ▪ Employment Contract                    |
| ▪ Medical History               | ▪ Police and Working with Children Check |
| ▪ Qualifications                | ▪ Payroll Information                    |
| ▪ Training Records/Certificates | ▪ Superannuation Details                 |

## Access

Staff information may be accessed by Management staff.

Staff have the right to:

- request access to personal information TripleCN Nursing Agency holds about them, without providing a reason for requesting access;



- access this information; and
- make corrections if they consider the information is not accurate, complete or up to date.

However, in accordance with the Privacy and Personal Information Protection Act 1998 (NSW), access may be denied in part or in total where:

- the request is frivolous or vexatious;
- providing access would have an unreasonable impact on the privacy of other individuals;
- providing access would be likely to prejudice an investigation of possible unlawful activity;
- providing access would pose a serious and imminent threat to the life or health of any individual; and denying access is required or authorised by or under law.

If an individual requests access to or the correction of personal information, within a service a benchmark of 2 working days (and no more than 45 days after receiving the request), staff will: provide access, or reasons for the denial of access;

- correct the personal information, or provide reasons for the refusal to correct the personal information; or
- provide reasons for the delay in responding to the request for access to or correction of personal information.

## Information Storage

Staff records are maintained in a locked filing cabinet in the office, which is kept locked outside of operational hours.

Computerised records are stored safely and secured with a password for access.

## Information Disclosure

Staff personal and health information will only be disclosed:

- for medical treatment or emergency;
- with written consent from the staff member; or
- when required by Commonwealth Law, or to fulfil legislative obligations such as mandatory reporting.

## Privacy Audits

TripleCN Nursing Agency will conduct annual privacy audits as per its *Internal Review and External Audit Schedule*.

The audit will be based on TripleCN Nursing Agency's Privacy Audit Checklist and review:

- what sort of personal information TripleCN Nursing Agency collects, uses, stores and discloses;
- how TripleCN Nursing Agency safeguards and manages personal information, including how it manages privacy queries and complaints; and
- how personal information that needs to be updated, destroyed or erased is managed.

## MONITORING AND REVIEW

This policy and procedure will be reviewed at least yearly by the Quality Management Team and incorporate consumer and other stakeholder feedback.

TripleCN Nursing Agency's Continuous Improvement Plan will be used to record and monitor progress of any improvements identified.



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Annual service delivery and satisfaction surveys will include questions regarding:

- satisfaction with TripleCN Nursing Agency privacy and confidentiality processes;
- whether stakeholders have received adequate information about privacy, dignity and confidentiality; and
- the extent to which consumers and their supporters feel their privacy, dignity and confidentiality has been protected.

## **DOCUMENTS RELATED TO THIS POLICY AND PROCEDURE**

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- Records and Information Management Policy and Procedure
- Continuous Improvement Plan
- Consent Form
- Declaration of Confidentiality
- Consumer Handbook
- Privacy Statement
- Data Breach Notification Form
- Privacy Audit

## **LEGISLATION, REGULATIONS AND STANDARDS RELATED TO THIS POLICY AND PROCEDURE**

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- Privacy Act 1988 (Cwth)
- Freedom of Information Act 1982 (Cwth)
- Archives Act 1983 (Cwth)
- Privacy and Personal Information Protection Act 1998 (NSW)
- Health Records and Information Privacy Act 2002
- Disability Services Act 1993 (NSW)
- United Nation's Universal Declaration of Human Rights
- Australian Privacy Principles for APP entities – Office of the Australian Information Commissioner
- Information and Privacy Commission Data Breach Notifications
- National Disability Insurance Scheme Practice Standards – *Standard 1: Rights and Responsibilities and Standard 2: Governance and Operational Management*
- National Standards for Disability Services – *Standard 1: Rights and Standard 6: Service Management*





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# Policy and Procedure

- National Standard and Quality Health Service Standards – *Standard 1: Governance for Safety and Quality in Health Service Organisations*
- Aged Care and Quality Standards – *Standard 1: Consumer Dignity and choice, Standard 2: Ongoing Assessment and Planning with Consumers, Standard 3: Personal care and Clinical Care and Standard 8: Organisational Governance*

## APPROVALS

|                                 |  |                             |             |
|---------------------------------|--|-----------------------------|-------------|
| Policy Document Owner:          | The Board  |                             |             |
| Reviewed by:                    | Quality Improvement Team                         |                             |             |
| <b>Date Reviewed:</b>           | N/A  | <b>Date of Next Review:</b> | August 2021 |
| <b>Policy Name:</b>             | Privacy and Confidentiality Policy and Procedure |                             |             |
| <b>Policy Number:</b>           | 1.24   |                             |             |
| <b>Document Version Control</b> |  |                             |             |
| 1.0                             | Original Policy                                  | 26 Aug 2020                 |             |
|                                 |  |                             |             |
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## EXECUTIVE APPROVAL

Date of Approval: 26<sup>th</sup> August 2020

Name of Director: Sushila WAGENER

Signature of Director: 