



My Health Records Amendment (Advance Care Planning Information and Professional Representatives) Rule 2016

My Health Records Act 2012

I, SUSSAN LEY, Minister for Health, make this Rule under section 109 of the *My Health Records Act 2012*.

Dated 31 March 2016

SUSSAN LEY
Minister for Health

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Part 1 Preliminary

1. Name of Rule

This Rule is the *My Health Records Amendment (Advance Care Planning Information and Professional Representatives) Rule 2016*.

2. Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
The whole of this instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3. Amendment of the *My Health Records Rule 2016*

Schedule 1 amends the *My Health Records Rule 2016*.

Schedule 1 Amendments

1. Rule 4

Insert:

advance care planning information means a document prepared by, or on behalf of, a healthcare recipient that states the healthcare recipient's preferences about her or his health and personal care and preferred health outcomes such as an advance care directive or a document relating to a substitute decision maker for health-related purposes.

Note 1: *The Advance Care Directives Framework September 2011*, as in force from time to time, references a nationally agreed lexicon of common terms for advance care planning documents that each State and Territory use. Advance care directives and advance care plans are examples of documents referenced in this Framework that may be uploaded by a healthcare recipient or a healthcare provider organisation to a repository to be included in a healthcare recipient's My Health Record.

professional representative means a person who the System Operator is satisfied is eligible to be an authorised or nominated representative of a healthcare recipient as a result of their employment.

2. Paragraph 6(2)(a)

Omit "and healthcare recipient-entered health summaries" and substitute: ", healthcare recipient-entered health summaries and advance care planning information".

3. Rule 19

Repeal the rule, substitute:

Restriction on uploading records other than shared health summaries and advance care planning information

For the purposes of paragraph 45(b)(ii) of the Act, all records other than the following are specified:

- (a) shared health summaries; and
- (b) advance care planning information.

Note 1: The Act and the *My Health Records Regulation 2012* place restrictions on the uploading of records to the My Health Record system.

Note 2: Clinical care plans, as described in *The Advance Care Directives Framework September 2011*, may be uploaded to the My Health Record system in the same way as any other clinical document.

4. Subrule 13(4)

Repeal the subrule, substitute:

- (4) If the System Operator suspends or cancels access to a healthcare recipient's My Health Record for an authorised representative under this rule, the System Operator must also suspend or cancel access to the healthcare recipient's My Health Record for all nominated representatives that were nominated by that authorised representative.
- (5) Despite subrule (4), the System Operator does not need to suspend or cancel access to the healthcare recipient's My Health Record for those nominated representatives where:
- (a) the nominated representative was nominated by an authorised representative who was a professional representative of the healthcare recipient (the *first professional representative*); and
 - (b) the healthcare recipient still has a professional representative, who is an authorised representative of the healthcare recipient, who is employed by the same employer as the first professional representative.

Note 1: Professional representatives do not need a healthcare identifier to be a representative— see subsections 6(6) and 7(3) of the Act and Part 4A of the Rule.

Note 2: Where access to a healthcare recipient's My Health Record is cancelled for a nominated representative under subrule (4), any remaining authorised representative may agree with the person who was previously a nominated representative to be reappointed as a nominated representative for the healthcare recipient.

Example: If an authorised representative who is an employee of a statutory care agency has their access to a healthcare recipient's My Health Record cancelled, any nominated representatives that the authorised representative originally appointed will not need to have their access cancelled so long as another employee of the statutory care agency remains as an authorised representative of the healthcare recipient.

5. After Part 4

Insert:

Part 4A Classes of authorised representatives and nominated representatives not required to have an assigned healthcare identifier

24A. Authorised representatives who are professional representatives

For the purposes of paragraph 6(6)(b) of the Act, a person who is a professional representative is not required to have been assigned a healthcare identifier to be an authorised representative of a healthcare recipient.

24B. Nominated representatives who are professional representatives

For the purposes of paragraph 7(3)(b) of the Act, a person who is a professional representative is not required to have been assigned a healthcare identifier to be a nominated representative of a healthcare recipient.

6. After Rule 32

Insert:

32A Uploading advance care planning information

A healthcare provider organisation may only upload to a repository advance care planning information where the healthcare recipient instructs the healthcare provider organisation to upload the information.