

New laws to improve the quality and safety of health care

Frequently asked questions – for health service entities

Contents

What is changing?.....	1
What are the existing barriers to information sharing?.....	2
What are the amendments to the Health Services Act?	3
What do the reforms mean for health service entities?	3
What do the reforms mean for patients?	4
What do the reforms mean for the department, Safer Care Victoria and the Victorian Agency for Health Information?.....	5
What are special advisers and what can they do?	5
To what extent is information authorised to be shared?	6
What do the changes mean for the Health Records Act and Privacy and Data Protection Act?	6
What do the changes mean for designated mental health services?	7
How do the new information sharing provisions relate to the <i>Targeting Zero</i> report?	7
Why is quality and safety not defined in the legislation?.....	7
Why is it not always practical to obtain confidential information by consent?.....	8
Why is it not always practical to deidentify and then share confidential information?.....	8
What are the consequences for sharing confidential information outside the authorisation or conditions required by the Health Services Act or an instrument made under the Act?	8
What happens if an individual does not act in good faith or exercise reasonable care when collecting, using or disclosing confidential information?.....	9
What protection would apply if an individual shares confidential information in circumstances that are not authorised by the Health Services Act (or any other law)?	9
How do the new information sharing provisions impact other related laws?.....	9
What are some examples of when the new information sharing provisions may be used?	10
How are the key terms defined?	13

What is changing?

The *Health Legislation Amendment and Repeal Act 2019* introduced a series of new information sharing provisions in the form of a new Part 6B 'Information sharing for quality and safety purposes' to be inserted into the *Health Services Act 1988*. The new provisions will commence on 27 August 2020.

The new information sharing provisions are intended to enhance the quality and safety of the Victorian health system by expressly authorising the Department of Health and Human Services (the department), quality and safety bodies (i.e. Safer Care Victoria and the Victorian Agency for Health Information), and health service entities to share confidential information about an individual (such as a

patient or a clinician) for quality and safety purposes. The provisions are intended to improve the flow of information to identify deficiencies in care and focus attention on opportunities for improvement.

Currently, the circumstances where a health service entity can disclose personal or health information to the department, Safer Care Victoria and the Victorian Agency for Health Information are limited by the authorisations contained in existing laws, such as section 141 of the *Health Services Act 1988*, the *Health Records Act 2001* and the *Privacy and Data Protection Act 2014*. There is no specific existing authorisation for sharing confidential information between these entities for quality and safety purposes. Part 6B of the Health Services Act will reduce the regulatory burden of sharing confidential information for quality and safety purposes by providing clear legislative authority for these activities. Although privacy impact assessments for information sharing should still be done, the legislative amendments are expected to reduce the complexity of these assessments.

The new information sharing provisions do not create a broad power for the wide sharing of confidential information in the health system. Neither do they compel any health service entity to share confidential information. They are designed to facilitate rather than mandate information sharing. There is no penalty or recourse if a person or a health service entity chooses not to share information under the new provisions.

After the amendments commence, the Health Services Act will provide certainty that confidential information may be shared between the Victorian Government and health service entities for a quality and safety purpose. The Act provides protections to government and health service entities that are disclosing, collecting or using confidential information for these purposes under the Act as long as this is done in good faith and with reasonable care (section 134ZD). If confidential information is collected, used or disclosed by an individual in these circumstances, this will not constitute unprofessional conduct or a breach of professional ethics by that individual, and will not make them subject to any liability in respect of those acts.

By making it easier for health service entities to share confidential information, it is anticipated that more information about incidents, risks and areas for improvement will be reported and shared, which will drive quality and safety improvements across the entire health system. This is consistent with the recommendation made by *Targeting Zero: supporting the Victorian hospital system to eliminate avoidable harm and strengthen quality of care* (Targeting Zero report) to improve the flow of information in the health system to facilitate identification of deficiencies in care and focus attention on opportunities for improvement.

This document provides information about the new provisions and what they mean for health service entities. For more information, you can contact the Department of Health and Human Services' Information Sharing and Privacy Team at: privacy@dhhs.vic.gov.au.

This document provides general guidance only. It is not legal advice. If you have a question about how the law applies to your particular circumstances, you should obtain your own advice.

What are the existing barriers to information sharing?

Under the existing laws, before any confidential information is collected, used or disclosed, an assessment must be conducted on a case-by-case basis to determine whether the Health Privacy Principles, the Information Privacy Principles or other specific legislation such as section 141 of the Health Services Act authorise the proposed collection, use or disclosure. This process can be complex and time consuming, in some cases. The principles-based approach is open to interpretation and can lack legal certainty, sometimes resulting in a decision not to share information when such sharing would, on balance, be desirable and appropriate. As a result, there is a lack of confidence among health service entities and the relevant agencies about what confidential information can be shared and when. Sometimes, entities decline to share quality and safety information for fear of breaching the existing laws.

The new information sharing provisions provide greater certainty, particularly to health service entities, Safer Care Victoria and the Victorian Agency of Health Information, regarding when confidential information may be collected, used and disclosed for quality and safety purposes.

After 27 August 2020, privacy impact assessments should ordinarily still be done, however, the analysis is likely to be more straight forward where the proposed collection, use or disclosure of confidential information is clearly authorised under Part 6B of the Health Services Act. In any privacy impact assessments, health service entities will still need to consider their existing privacy obligations under the Health Privacy Principles and Information Privacy Principles that have not been displaced by Part 6B, such as overarching data security and data quality obligations.

The Office of the Victorian Information Commissioner has published a privacy impact assessment template and accompanying guide, available on its website: <https://ovic.vic.gov.au/privacy/for-agencies/privacy-impact-assessments/>.

What are the amendments to the Health Services Act?

The new information sharing provisions create a new statutory authority for the collection, use and disclosure of confidential information in the following circumstances:

- the Secretary of the department, Safer Care Victoria and the Victorian Agency for Health Information may collect, use and disclose confidential information for quality and safety purposes from and to each other
- health service entities may disclose confidential information for a quality and safety purpose to the Secretary, Safer Care Victoria or the Victorian Agency for Health Information
- the Secretary, Safer Care Victoria or the Victorian Agency for Health Information may appoint a person or body, such as an expert in a particular clinical field, as a special adviser to carry out functions for one or more specified quality and safety purposes in relation to one or more specified health service entities, and for confidential information to be shared for these specified purposes
- the Minister may authorise (by an instrument) a health service entity to collect, use and disclose confidential information from and to another health service entity for specified quality and safety purposes.

More detail is provided below. Please note key terms including 'confidential information', 'quality and safety purpose', 'health service entity' and 'special adviser' are defined in the legislation. These are summarised at the end of this document.

What do the reforms mean for health service entities?

Health service entities can share confidential information with the department, Safer Care Victoria and the Victorian Agency for Health Information

A health service entity may disclose confidential information to the Secretary of the department, Safer Care Victoria and the Victorian Agency for Health Information for a quality and safety purpose (subsection 134X(3)). This can occur at any time and without the health service entity receiving a request for information.

Health service entities can share confidential information with a special adviser

If the Secretary, Safer Care Victoria or the Victorian Agency for Health Information appoint a special adviser, a health service entity or a class of health service entity specified in the appointment may disclose confidential information to the special adviser for a quality and safety purpose (subsection 134ZA(3)).

Health service entities can share confidential information with other health service entities, if authorised by an instrument issued by the Minister

Pursuant to section 134ZB, the Minister for Health may by instrument authorise a health service entity or a health service entity in a class of health service entity to do any of the following for one or more specified quality and safety purposes:

- collect and use confidential information from another health service entity or class of health service entity
- disclose confidential information to another health service entity or class of health service entity.

Ordinarily, an authorisation under section 134ZB is required to be published in the Government Gazette. However, the authorisation is not required to be published if it identifies or would enable the identification of an individual to whom the confidential information relates (for example, if the authorisation relates to a specific incident review for a named individual or the procedures conducted by a named clinician).

The instrument will specify:

- the health service entities or class(es) of health service entity to which it applies
- the quality and safety purposes for which the health service entities may disclose confidential information.

The Minister may also specify the kind of confidential information that may be collected, used or disclosed; and how the confidential information is to be collected, used or disclosed. The instrument takes effect on the date specified in the instrument.

The Minister has, by instrument, authorised the sharing of confidential information between health service entities for the purpose of a review of an adverse patient safety event where patient care was provided by multiple health service entities. The instrument was published in the Government Gazette on 23 July 2020. It comes into effect on 27 August 2020 and will remain in place until 27 August 2025.

What do the reforms mean for patients?

Under the new information sharing provisions an individual's health information may be disclosed by a health service entity to the Department of Health and Human Services, Safer Care Victoria, the Victorian Agency for Health Information, and/or (only in specific circumstances authorised by the Minister for Health) another health service entity to improve quality and safety. There is not a requirement for the individual to consent to or be notified about their information being shared. This sharing will be authorised by the Health Services Act (as amended) and is intended to support continuous service improvement.

An individual's health information can be – and sometimes is – already shared under existing privacy legislation for reasons other than to provide care or treatment. The new information sharing provisions specify another set of circumstances in which such information sharing may occur.

This may – or may not – surprise people. The extent to which people understand how their information may be used under existing privacy legislation varies. For example, some may be unaware that a hospital may, in some limited circumstances, already share their health information for purposes related to service improvement, without their consent or notification. Conversely, some may expect their information to be used to improve the quality and safety of the health system. For instance, if a patient was harmed while being treated at a hospital, they might assume that the hospital and the government would do all they can to learn from the event and prevent recurrence.

Patients will probably not notice changes in their direct interactions with health service or government entities as a result of the new information sharing provisions. But over time, we anticipate that under the new legislation government and health service entities will increasingly collect, use and disclose confidential information to improve quality and safety in the health system. We expect this to translate to higher quality and safer healthcare experiences for patients.

It is important to remember that the new provisions do not provide general authority for the government to share confidential information with others, nor for health service entities to share confidential information with the government outside of the specific quality and safety purposes or (for sharing with another health service entity) Ministerial authorisation.

Detail about what the provisions mean for patients is included in a separate document available at: <https://www.dhhs.vic.gov.au/publications/privacy-policy>.

What do the reforms mean for the department, Safer Care Victoria and the Victorian Agency for Health Information?

The Secretary of the department, Safer Care Victoria and the Victorian Agency for Health Information may:

- collect and use for any quality and safety purpose any confidential information disclosed to them under Part 6B for any quality and safety purpose (section 134Y)
- disclose confidential information to each other for any quality and safety purpose (subsections 134X(1) and (2)).

For example, under the new provisions:

- Safer Care Victoria may share details about an adverse patient safety event (an incident that resulted in harm to a person receiving care) that has occurred at a health service entity with the Victorian Agency for Health Information or the department to determine how to monitor changes over time or develop predictive analytics to identify possible areas of concern
- the Victorian Agency for Health Information may share patient reported outcomes data with Safer Care Victoria or the department to identify variations in clinical practice, provide information about the appropriateness of care for particular patient cohorts and potentially reduce unplanned readmissions through improved patient outcomes (for further detail, see Example 6 in the examples provided below of when the new information sharing provisions may be used).

Where the Secretary, Safer Care Victoria and the Victorian Agency for Health Information requests information from a health service entity for a quality and safety purpose, they may disclose a limited amount of confidential information to the health service entity to enable it to determine whether it has confidential information relevant to a purpose specified in the request (subsection 134X(4)). For example, the Secretary may disclose the name and other identifying details of a particular individual (such as a patient or a clinician) to a health service entity, as part of a request for information for a quality and safety purpose, to assist the health service entity to determine if it holds information about any incidents in relation to that individual have occurred at that entity that are relevant to the quality and safety purpose specified in the request.

What are special advisers and what can they do?

Under section 134Z, the Secretary of the department, Safer Care Victoria or the Victorian Agency for Health Information may appoint an entity as a special adviser for one or more quality and safety purposes.

A special adviser's appointment will be made in relation to a specified health service entity or a class of health service entity. Their appointment may also be subject to conditions relating to:

- the kind(s) of confidential information that may be collected, used or disclosed
- how confidential information is collected, used or disclosed.

This provision may be used to appoint individuals or other entities to undertake specialist reviews in relation to quality and safety issues at one or more health service entities. For example, this provision may be used to appoint a body such as the Regional Perinatal Mortality Committee operated by the Royal Women's Hospital. It may also be used to appoint one or more individuals to undertake a broader ranging review such as that which resulted in the *Targeting Zero* report.

Any person or body appointed will likely be an expert or be comprised of experts in a particular clinical field and will bring specific knowledge and experience that will assist in carrying out functions for a particular quality and safety purpose, as well as a good understanding of confidential data management.

Special advisers are authorised under section 134ZA to:

- collect and use confidential information from a health service entity or health service entity in the class specified in the appointment, the appointing body (either the Secretary, Safer Care Victoria or the Victorian Agency for Health Information), or another special adviser jointly appointed with that person
- disclose confidential information to the appointing body (either the Secretary, Safer Care Victoria or the Victorian Agency for Health Information), or another special adviser jointly appointed with that person.

The special adviser can also disclose a limited amount of confidential information to a health service entity to assist the health service entity to identify any other information required by the special adviser that is relevant to the quality and safety purpose.

To what extent is information authorised to be shared?

Collection, use or disclosure is only authorised to the extent necessary to achieve the quality and safety purpose.

Any person or entity who is authorised to collect, use or disclose confidential information for a quality and safety purpose must not collect, use or disclose the information except to the extent necessary to achieve that purpose (section 134ZC). The new provisions do not authorise the sharing of confidential information for any wider purpose.

A person would not, for example, be authorised under the new provisions to share a person's entire health record or a staff member's entire personnel file to the extent the full record or file is not relevant to an incident under review. The sharing of confidential information is only authorised to the extent necessary to achieve a specific quality and safety purpose.

What do the changes mean for the Health Records Act and Privacy and Data Protection Act?

In order to give full effect to the new information sharing provisions, complementary amendments will be made to the Health Records Act and the Privacy and Data Protection Act so that:

- the collection of confidential information by relevant entities for the purposes of Part 6B is not subject to:
 - Health Privacy Principles 1.3 and 1.5
 - Information Privacy Principles 1.4 and 1.5
- the collection, use or disclosure of confidential information for the purposes of Part 6B is not subject to any of the Health Privacy Principles or Information Privacy Principles to the extent that they require the consent of the person to whom the information relates.

These amendments ensure that the Secretary of the department, Safer Care Victoria, the Victorian Agency for Health Information, special advisers and health service entities who collect, use and/or disclose information for a quality and safety purpose under Part 6B are not, in relation to that collection, use or disclosure, required to:

- collect the information directly from the person to whom it relates
- notify the person to whom the information relates when their information is collected by a third party
- obtain the consent of the person to whom the information relates.

These amendments do not displace other Health Privacy Principles or Information Privacy Principles. Other laws and the *Charter of Human Rights and Responsibilities Act 2006* otherwise continue to apply to the collection, use and disclosure of health and personal information.

What do the changes mean for designated mental health services?

Designated mental health services (including staff members) are prohibited from disclosing health information about consumers under the *Mental Health Act 2014*. One of the exceptions to this is where the disclosure is permitted by another Act.

Designated mental health services fall within the definition of 'health service entities' under the Health Services Act. These reforms will provide a legal basis for designated mental health services to share confidential information with the department, Safer Care Victoria, the Victorian Agency for Health Information, special advisers or other health services entities (if authorised by the Minister) for quality and safety purposes.

How do the new information sharing provisions relate to the *Targeting Zero* report?

One of the key themes of the *Targeting Zero* recommendations was the need to 'improve the flow of information in the health system to facilitate identification of deficiencies in care and focus attention on opportunities for improvement'.

Several recommendations from *Targeting Zero* relate specifically to information sharing between agencies in a number of contexts, primarily relating to the improvement of incident reporting and management (e.g. recommendations 3.3, 3.4, 3.6 and 4.9). Others are about enabling deficiencies of care to be identified to focus attention on opportunities for improvement.

The new provisions are intended to ensure information about incidents and deficiencies can be shared between health service entities and the relevant government agencies easily and efficiently, which is expected to drive improvements across all parts of the health system. This is consistent with the *Targeting Zero* report.

Why is quality and safety not defined in the legislation?

The new provisions do not include a definition of 'quality and safety'. The terms are already found within the Health Services Act. They are common terms used in the National Safety and Quality Health Service Standards and are well understood by people who work in the health system. The specific term 'quality and safety purpose' is defined in the new provisions and the definition is included at the end of this document.

By not defining these terms, their meaning can continue to keep pace with contemporary understandings and meanings of quality and safety in health care.

Why is it not always practical to obtain confidential information by consent?

While best efforts should ordinarily be made to obtain confidential information by consent, it is not always practical to do this to improve quality and safety. There may be occasions where information is required quickly in the context of quality and safety purposes. The process of obtaining consent may delay the disclosure.

For example, if it is necessary to disclose the health information of all persons treated on a ward over a period of time to assess the possible inappropriate use of antibiotics, it would be difficult and time consuming to locate those individuals to seek their consent.

Why is it not always practical to deidentify and then share confidential information?

In some situations, confidential information can be deidentified before it is shared for quality and safety purposes. However, this is not always the case. Confidential information shared for quality and safety purposes often contains multiple identifiers and context detail that, in itself, is potentially personally identifying. Simply removing a person's name or date of birth would not necessarily deidentify the information, as it does not mean that the remaining information can't identify them.

Personal identifiers are often needed to ensure information is being shared about the right patient and can be linked to other information sources about the same patient. Knowing the identity of the patient is often critical to understanding the full picture from the government's oversight perspective. For example, Safer Care Victoria may require identifying information about a patient's clinical history or current diagnosis as well as their treatment history, to understand the full picture, join the dots and identify any patterns relating to clinical incidents of concern. The impact on that individual is important to understand in order to learn from and prevent such experiences from reoccurring.

In addition, the confidential information that needs to be shared for quality and safety purposes does not only relate to patients' details. There may be instances where confidential personal information about staff or contractors needs to be shared in order to consider the quality and safety aspect of a particular complaint or incident – see Example 1 of when the new provisions may be used for an example of this.

What are the consequences for sharing confidential information outside the authorisation or conditions required by the Health Services Act or an instrument made under the Act?

Sharing health information or personal information in a way that is not authorised by the new provisions, and that is not permitted by the Health Privacy Principles, Information Privacy Principles or other law, could amount to a privacy breach and should be managed like any other privacy breach committed right now. This would include:

- returning, rejecting, deleting or destroying (whichever is appropriate in the circumstance) confidential information shared outside the requirements of the Act (and without authority under any other law)
- notifying the non-compliant entity that it shared the information outside the authorisation of the Act (and without authority any other law).

Health service entities may also wish to get in touch with the Health Complaints Commissioner or Office of the Victorian Information Commissioner to access appropriate guidance and support in relation to privacy incidents. The Health Complaints Commissioner and the Office of the Victorian Information Commissioner have each published guidance on managing privacy breaches, available on their respective websites: <https://hcc.vic.gov.au/health-records> and <https://ovic.vic.gov.au/privacy/for-agencies/responding-to-data-breaches/>.

What happens if an individual does not act in good faith or exercise reasonable care when collecting, using or disclosing confidential information?

If an individual does not act in good faith or exercise reasonable care when collecting, using or disclosing information, even it is authorised to be done for a quality and safety purpose, then that individual may lose the statutory protection from liability provided under the new section 134ZD.

What protection would apply if an individual shares confidential information in circumstances that are not authorised by the Health Services Act (or any other law)?

The protections in section 134ZD of the Health Services Act are designed to apply where reasonable care and good faith is exercised in the handling of confidential information. Whether the protections will apply if an individual shares confidential information in circumstances that have not been authorised will depend on the circumstances of each case.

For example, if an individual includes more confidential information for a quality and safety purpose than turns out to be relevant, then the protections *may* apply providing that the person has a reasonable belief that the information was relevant and shared it in good faith.

This situation is likely to be very different to one where an individual knows that they are not authorised to disclose confidential information but knowingly and intentionally discloses this information. The protections would almost certainly not apply in this instance.

An individual may complain to the Health Complaints Commissioner or to the Office of the Victorian Information Commissioner if they believe their health or personal information was shared inappropriately.

How do the new information sharing provisions impact other related laws?

The information sharing provisions do not impact:

- the collection, use or disclosure of confidential information by any person or entity for a purpose that is not a quality and safety purpose
- the role of the Australian Health Practitioner Regulation Agency in regulating health practitioner conduct
- the role of the Coroner in investigating a death
- how confidential information is stored and secured in digital systems by hospitals and other health services.

The new provisions do not impede patients' rights to raise concerns about health practitioners under health regulation or complaints laws. If a patient has concerns about a health practitioner, they should make a complaint to the health service entity where the practitioner works. Patients may also make complaints to the Australian Health Practitioner Regulation Agency about a registered health

practitioner, or the Health Complaints Commissioner about a registered or unregistered health practitioner.

The *Privacy Act 1988* (Cth) authorises the use and disclosure of personal information if the use or disclosure is authorised by or under an Australian law (see Australian Privacy Principle 6.2(b)). An 'Australian law' is defined to include a Victorian law (see section 6(1) of the Privacy Act).

What are some examples of when the new information sharing provisions may be used?

Example 1

Understanding the cause and impact of underdosing

If underdosing of patients was identified at a number of hospitals, an investigation by Safer Care Victoria would be warranted. It would be critical for Safer Care Victoria to learn of the full detail of these occurrences in order to take action to protect Victorians. To facilitate this, incident data would need to be reported to Safer Care Victoria by the hospitals where the underdosing is occurring. The investigation may require sharing identifying information about staff, in order that there can be a systematic analysis of all possible causes. It may be due to a clinician, equipment, pharmaceutical or something else entirely. It may be systemic or local. Safer Care Victoria would need to have all the relevant information available, including that which identifies relevant individuals in each instance, so that it can understand the full picture, join the dots and identify patterns. For example, if a particular clinician is a common factor in all of the cases of underdosing, then this could only be ascertained from information that identifies the relevant clinicians in each case. Confidential patient information may also be required in order to trace the patients' clinical experience to make sure that there have been no adverse outcomes. Safer Care Victoria could use all this information to identify the reasons for the underdosing, including any systemic issues, and develop a strategy to ensure patients receive the correct dose in the future.

In a case like this, it is likely that the information described above would be shared. By removing doubt as to the legality of sharing this information for quality and safety purposes, the new information sharing provisions will enable health service entities to share the relevant information in all appropriate cases with Safer Care Victoria with certainty and confidence.

Example 2

Quality and safety review of high-risk procedures

If variable outcomes were associated with a particular high-risk procedure, an investigation by Safer Care Victoria would be warranted. In order to compare the outcomes, health service entities would need to disclose details in relation to patients' pre-existing conditions, age and the impact of the procedure. Safer Care Victoria could use this information to identify the reasons for the variable outcomes and if appropriate, develop a strategy to encourage outcome consistency or reduce any related patient risks.

In a case like this, it is likely that the information described above would be shared. By providing a clear basis for sharing this information for quality and safety purposes, the new information sharing provisions will enable health service entities to share the relevant information in all cases with Safer Care Victoria with greater certainty and confidence.

Example 3

Review into a death involving multiple hospitals

If a person died after having been misdiagnosed as having a minor medical condition by several hospitals over a number of days, an investigation would be warranted. A single joint review of the adverse patient safety event involving all of the hospitals that provided care to the patient – rather than separate reviews by each – would be critical to learning from the incident and preventing similar ones from occurring in the future.

The hospitals would need to share confidential information for the purpose of the review, but a hospital may decline to participate in the joint review because of perceived privacy concerns. Under these circumstances it would be best practice to contact the family of the deceased to seek their consent for this health information to be shared, and to ensure the family is informed of the review outcomes.

The new information sharing provisions allow the Minister to provide a clear legislative authorisation for the sharing of information in these circumstances between the relevant health service entities. This would address any perceived barriers to joint reviews posed by Victoria's current privacy legislation.

The Minister has, by instrument, authorised the sharing of confidential information between health service entities for the purpose of a review of an adverse patient safety event where patient care was provided by multiple health service entities. The instrument was published in the Government Gazette on 23 July 2020. It comes into effect on 27 August 2020 and will remain in place until 27 August 2025.

Example 4

Using incident data to predict and prevent recurrences

The Victorian Agency for Health Information might share details about an incident that has occurred at a health service entity with Safer Care Victoria and/or the department and then work together to determine ways in which they could monitor changes over time or develop predictive analytics, to identify possible areas of concern. The specific incident may prompt the need to monitor a particular indicator or set of indicators whose significance was not previously understood. The agencies would need a strong understanding of the incident and what lead indicators were present that could warn the government in the future, in order to prevent the incident recurring. The Victorian Agency for Health Information may, for example, collect information from a health service entity about a serious incident involving bullying that resulted in a WorkCover claim. It could then work with the department to look at a range of other similar cases where there are lag indicators such as WorkCover claims, and examine those cases to find common lead indicators (such as excessive sick leave usage), in order to help detect bullying or culture problems to prevent similar incidents occurring in the future.

The new information sharing provisions authorise the Victorian Agency for Health Information to share this type of confidential information with Safer Care Victoria and/or the department for this purpose.

Example 5

Learning from patient complaints

Complaints from patients can be a signal of a system or governance concern that relates to quality and safety. Some hospitals have declined to provide information regarding a patient complaint to Safer Care Victoria citing privacy concerns, even though the patient has consented to the information being provided. The new information sharing provisions provide health service entities with a clear authority to disclose this type of confidential information to Safer Care Victoria for quality and safety purposes. Consistent access to complaints data will improve Safer Care Victoria's ability to understand and oversee the health system.

Example 6

Using patient reported outcomes data to improve quality and safety

Patient reported outcomes data comes from questionnaires completed by patients about their health-related quality of life. Suitable patients are identified by health service entities' clinical staff. This data is collected by research staff and entered into a registry managed by an external data custodian that then shares the information with the Victorian Agency for Health Information. It can be used to measure the quality of life gain associated with a treatment or management of a disease. Benchmarking of patient reported outcome data can also identify variations in clinical practice, provide information about the appropriateness of care for particular patient cohorts and potentially reduce unplanned readmissions through improved patient outcomes.

Whilst patient reported outcome data is collected by the Victorian Agency for Health Information, individual level information is not being shared with the department or Safer Care Victoria because patients' consent to the release of this information has not been sought. The new information sharing provisions will allow for data that has been collected and analysed by the Victorian Agency for Health Information to be shared with Safer Care Victoria and the department to improve and enhance our health system.

Example 7

Review into a suicide involving a private hospital and a designated mental health service

A person is transferred from a private hospital to an inpatient unit at a health service entity that is a designated mental health service to receive compulsory mental health treatment. The person suicides shortly after being admitted to the inpatient unit. In this circumstance the death must be reported to the Chief Psychiatrist and Safer Care Victoria. An internal incident review would also be conducted to review the events leading up to the death, including the arrangements for transfer of care between the two hospitals. The new information sharing provisions allow the Minister to provide a clear legislative authorisation for the sharing of information in these circumstances between the private hospital and the designated mental health service for the purpose of the incident review. This would address any perceived barriers to joint reviews posed by Victoria's current privacy legislation.

The Minister has, by instrument, authorised the sharing of confidential information between health service entities for the purpose of a review of an adverse patient safety event where patient care was provided by multiple health service entities. The instrument was published in the Government Gazette on 23 July 2020. It comes into effect on 27 August 2020 and will remain in place until 27 August 2025.

How are the key terms defined?

Confidential information	<ul style="list-style-type: none">• health information within the meaning of the Health Records Act• personal information within the meaning of the Privacy and Data Protection Act• sensitive information within the meaning set out in Schedule 1 to the Privacy and Data Protection Act• unique identifiers within the meaning set out in Schedule 1 to the Privacy and Data Protection Act• identifiers within the meaning of the Health Records Act
Health service entity	<ul style="list-style-type: none">• a public health service• a public hospital• a multi purpose service• a denominational hospital• a private hospital• a day procedure centre• an ambulance service within the meaning of the <i>Ambulance Services Act 1986</i>• a non-emergency patient transport service within the meaning of the <i>Non-Emergency Patient Transport Act 2003</i> that is licensed under that Act• the Victorian Institute of Forensic Mental Health established by section 328 of the <i>Mental Health Act 2014</i>• a prescribed entity that provides health services.
Quality and safety body	A prescribed entity that has functions relating to quality and safety of health service entities. Safer Care Victoria and the Victorian Agency for Health Information will be prescribed as quality and safety bodies.
Quality and safety purpose	<p>Section 134W provides that, for the purposes of Part 6B, each of the following is a quality and safety purpose:</p> <ul style="list-style-type: none">• collecting and analysing information relating to the quality and safety of health service entities• monitoring and review of the quality and safety of health service entities and associated risks• reporting to the Secretary or to a quality and safety body in relation to the:<ul style="list-style-type: none">– performance of a health service entity– risk to an individual or the community associated with the performance of a health service entity• incident reporting and performance reporting in relation to health service entities• incident response, including case review, in relation to health service entities. <p>The sort of activities that would fall within this definition include: the provision of complaints and incident data by health service entities to the department and Safer Care Victoria; joint incident reviews conducted by all the relevant health service entities involved in an adverse patient safety event, and quality and safety reviews conducted by Safer Care Victoria.</p>
Special adviser	An entity (including a person) appointed as a special adviser by the Secretary or a quality and safety body under section 134Z.

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