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3 June 2014

Personal Data Protection Commission
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Public Consultation on proposed Healthcare Sector guidelines

Dear Sir/Madam,

We refer to your call for feedback on the proposed Advisory Guidelines for the Healthcare Sector dated 16 May 2014.

We are pleased to provide the following feedback to seek greater clarification on the impact of PDPA on the healthcare sector.

For further correspondences on this matter, you can contact the undersigned, or:

Name: Martin Ho / Lee Sze Yong

Email: martinho@sma.org.sg / szeyong@sma.org.sg

Contact: 6223 1264

We look forward to your consideration of our comments

Yours faithfully

A handwritten signature in black ink, appearing to read 'Tammy Chan', with a stylized flourish at the end.

Dr Tammy Chan
Honorary Secretary
55th Council
Singapore Medical Association

Enclosed: Annex A on SMA's comments.

| S/No | Summary of comments | Para in Proposed Advisory Guidelines for the Healthcare Sector 16 May 2014 | Comments by the Singapore Medical Association |
|------|---|--|---|
| 1 | The examples quoted are directly related to the provision of healthcare services, and as such, a separate notification should not be required. | Para 2.3: <i>For example, Clinic ABC can notify John through a note on the registration form to indicate the purposes that his personal data may be used for, such as: to maintain his patient file, to contact him for follow up consultations, or to disclose to external laboratories for any tests related to the purpose of his visit.</i> | Even though this is categorised as “good practice”, it is our view that the examples listed “...such as: to maintain his patient file, to contact him for follow up consultations, or to disclose to external laboratories for any tests related to the purpose of his visit.” should be considered as directly related to the provision of healthcare services, and as such, there is no need for the practice of specific notification of the use of personal data, as it would be consented by the patient voluntarily registering for medical care. |
| 2 | The understanding of varied scenarios is not covered in the advisory guidelines. | Para 2.4: <i>As good practice, the doctor could consider documenting such consent, such as by making a note in the patient file. Having evidence supporting verbal consent would be useful in the event of a dispute.</i> | We wish to highlight other situations for clarity. In certain situations, a doctor may give the patient a referral letter with his or her personal data, for him or her to present to the referred doctor, in (a1) a sealed or (a2) an unsealed envelope that is addressed to (b1) a specified doctor or (b2) an unspecified doctor for referral. In such instances, what would be the responsibility of the referring doctor to obtain consent from the patient? |
| 3 | The consideration of patient’s confidentiality prior to the disclosure of personal data without consent, based on the examples of the exceptions. | Para 2.8: <i>John’s employer and Organisation XYZ should consider if an exception to the Consent Obligation in the PDPA could apply to their collection of John’s personal data. Examples of exceptions which could apply in the employment context (depending on the relevant facts) include: a) the collection of personal data by organisations about</i> | We agree that the clinic should consider “if such disclosure would be in breach of other legal obligations or ethical requirements.” The examples of the exceptions given thereafter challenge the need for patient’s confidentiality, and this fact should be emphasised – the clinic needs to reassure itself that before it discloses personal data without consent, |

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| | | <p><i>their employees that is reasonable for the purpose of managing or terminating their employment relationships, or</i></p> <p><i>b) the collection of personal data by organisations necessary for evaluative purposes.</i></p> | <p>based on the stated exceptions, consideration should be placed on the need for patient's confidentiality.</p> |
| 4 | <p>Suggested rewording of paragraphs to enhance clarity and understanding.</p> | <p><i>Para 3.5: In the event that an individual who is engaged in legal proceedings with an organisation makes an access request to obtain relevant personal data or other information, the organisation would not be required to provide the requested information if any exception applies, e.g. the exception in paragraph 1(h) of the Fifth Schedule. This exception provides that an organisation is not required to provide access to personal data collected, used or disclosed without consent for the purposes of an investigation if the investigation and associated proceedings and appeals have not been completed¹⁵.</i></p> <p><i>Para 3.6: For the avoidance of doubt, organisations should note that the Data Protection Provisions of the PDPA do not affect discovery obligations under law that parties to a legal dispute may have (e.g. pursuant to any order of court).</i></p> | <p>These paragraphs contain legal jargons, making it difficult to follow. We propose rewording the paragraphs to enhance clarity and understanding.</p> |