



Author Code: [REDACTED]  
File number: [REDACTED]  
Division/Branch: HR Services, People and Corporate Services  
Phone: [REDACTED]

Gold Coast Hospital  
& Health Service

[REDACTED]

Dear [REDACTED]

I refer to your employment as [REDACTED] Nurse [REDACTED] with the [REDACTED] Gold Coast Hospital and Health Service (GCHHS) and information which raises serious allegations concerning your workplace conduct.

After giving full and careful consideration to the material available to me, I am of the view that you may be liable for disciplinary action pursuant to sections 187 and 188 of the *Public Service Act 2008* (the Act).

#### Background

- You have worked for GCHHS since 4 July 2011 and started as [REDACTED] Nurse at [REDACTED].
- You were promoted to the role of [REDACTED] Nurse [REDACTED] Gold Coast University Hospital on [REDACTED].
- You have completed the following mandatory training:
  - Ethics, Integrity and Accountability, Fraud and PID on 2 May 2017
  - Information Security 101 on 12 October 2018

#### Allegation one

Between 4 June 2018 and 11 October 2018, you inappropriately accessed the electronic medical record of [REDACTED] when it was not a requirement of your role.

Specifically, you accessed the record on:

- 4 June 2018 at 1010 hours
- 9 August 2018 at 0826 hours
- 9 August 2018 at 0950 hours
- 9 August 2018 at 1151 hours
- 9 August 2018 at 1336 hours
- 9 August 2018 at 1451 hours
- 9 August 2018 at 1624 hours
- 13 August 2018 at 0834 hours
- 4 October 2018 at 1158 hours
- 11 October 2018 at 1241 hours.

#### Allegation two

Between 31 July 2018 and 20 August 2018, you inappropriately accessed the electronic medical record of [REDACTED] when it was not a requirement of your role.

Specifically, you accessed the record on:

- 31 July 2018 at 0824 hours
- 9 August 2018 at 0949 hours
- 9 August 2018 at 1148 hours
- 9 August 2018 at 1215 hours
- 9 August 2018 at 1335 hours
- 9 August 2018 at 1400 hours
- 9 August 2018 at 1451 hours
- 9 August 2018 at 1554 hours
- 20 August 2018 at 0839 hours.

**Allegation three**

On 6 February 2018 at 0808 hours, you inappropriately accessed the electronic medical record of [REDACTED] when it was not a requirement of your role.

**Particulars**

- a. On 20 January 2018, a clinician reported that a patient, [REDACTED] had raised concerns that her medical records may have been inappropriately accessed by her mother-in-law, who was an employee of GCHHS. [REDACTED] disclosed that you were the mother of her partner [REDACTED].
- b. An audit of [REDACTED] electronic medical record identified you had accessed her record on ten occasions, as detailed in Allegation One.
- c. A review of your overall access to patient records showed you had accessed the electronic medical records of [REDACTED] on 9 occasions as detailed in Allegation Two and [REDACTED] once as detailed in Allegation Three.
- d. You are recorded in the Hospital Based Corporate Information System (HBCIS) as the next of kin for [REDACTED].
- e. Payroll records show you were at work on all dates where you accessed the records of [REDACTED].
- f. Section 1.2 of the Gold Coast Health EMR Business Rules states:
  - o *'All patient information documented, scanned and stored in the EMR application is to remain confidential at all times in accordance with legislative and policy requirements.'*
  - o *'Access to the EMR is based on the need to access the patient's medical record.'*
  - o *'All EMR users are subject to the 'Code of Conduct for the Queensland Public Service'; any breaches will have disciplinary action taken accordingly.'*
- g. Computer misuse is an offence under section 408E of the *Criminal Code Act 1899* and can incur penalties up to two years imprisonment.
- h. Based on the information currently available to me, I am concerned that you may have inappropriately accessed the electronic medical records of [REDACTED] [REDACTED], when it was not a requirement of your role to do so.

**Allegation four**

Between 29 August 2017 and 17 May 2018, you inappropriately accessed your own electronic medical record [REDACTED] when it was not a requirement of your role.

Specifically, you accessed the record on:

- 29 August 2017 at 0918 hours
- 10 May 2018 at 1421 hours
- 10 May 2018 at 1537 hours
- 17 May 2018 at 0758 hours.

**Particulars**

- a. A review of your overall access to patient records showed you had accessed your own medical record on four occasions as detailed in Allegation Four.
- b. You were rostered to work on 29 August 2017, when the report shows you accessed your record at 0918 hours.
- c. You were not on duty or rostered to work on 10 May 2018 when the report shows you accessed your record twice; or 17 May 2018 when the report shows you accessed your record once. I note you had a personal outpatients' appointment at Gold Coast University Hospital on 10 May 2018.
- d. Section 1.2 of the Gold Coast Health EMR Business Rules states:
  - o *'All patient information documented, scanned and stored in the EMR application is to remain confidential at all times in accordance with legislative and policy requirements.*
  - o *Access to the EMR is based on the need to access the patient's medical record.*
  - o *All EMR users are subject to the 'Code of Conduct for the Queensland Public Service'; any breaches will have disciplinary action taken accordingly'.*
- e. Computer misuse is an offence under section 408E of the *Criminal Code Act 1899* and can incur penalties up to two years imprisonment.
- f. Based on the information currently available to me, I am concerned that you may have inappropriately accessed your own electronic medical record without authorisation and when it was not a requirement of your role to do so.

**Possible grounds for discipline**

Having considered the information currently available to me in respect of the allegations, I consider there **may** be grounds for you to be disciplined pursuant to the PSA 2008:

- a) section 187(1)(b) in that, if substantiated, you may be guilty of misconduct, that is inappropriate or improper conduct in an official capacity within the meaning of s187(4)(a).

Further, or in the alternative;

- b) section 187(1)(f)(ii) in that you may have contravened, without reasonable excuse, a standard of conduct applying under an approved code of conduct, namely the *Code of Conduct for the Queensland Public Service*, specifically:

*Principle 4 – Accountability and transparency*

Clause 4.1 of the code which provides as follows:

4.1 Ensure diligence in public administration

We have an obligation to seek to achieve high standards of public administration and perform our duties to the best of our abilities.

We will:

- a. exercise our lawful powers and authority with care and for the purpose for which these were granted.

and

Clause 4.4 of the code which provides as follows:

4.4 Ensure appropriate use and disclosure of official information

Information privacy legislation protects against the misuse of personal information and we have an obligation to ensure the lawful collection and handling of personal information.

We will:

- a. treat official information with care and use it only for the purpose for which it was collected or authorised
- b. store official information securely, and limit access to those persons requiring it for legitimate purposes, and
- c. not use confidential or privileged information to further personal interests.

However, in accordance with the principles of natural justice, no determination has been made or will be made until you have had the opportunity to respond.

Should a determination be made that there are grounds for you to be disciplined pursuant to the *Public Service Act 2008* the disciplinary action that may be taken includes, but is not limited to, one or more of the following:

- termination of employment
- reduction in classification level and consequential change of duties
- transfer or redeployment to other public service employment
- forfeiture or deferral of a remuneration increment or increase
- reduction in remuneration
- imposition of a monetary penalty
- direction that a penalty imposed be deducted from periodic remuneration payments
- a reprimand.

**Notice to show cause**

I now afford you the opportunity to show cause, in writing, within **fourteen (14) calendar days** of receipt of this letter, why you should not be disciplined in relation to the allegations detailed above. Your written response should include whether you admit or deny the allegations made against you and provide any explanation of the matter above that you consider relevant.

Your response should be marked 'Private and Confidential' and sent to:

Name: [REDACTED]  
[REDACTED]  
Postal address: Gold Coast University Hospital  
1 Hospital Boulevard, Southport Qld 4215  
Email: [REDACTED]

If you are a member of a union, you may wish to seek assistance from your union in preparing your response.

I will consider any written response from you along with the material attached prior to making a decision. If you do not respond within **fourteen (14) calendar days** of receipt of this letter I will make a decision based on the information currently before me.

**Documentation**

A copy of the following documents is enclosed for your consideration in relation to the allegations:

- Report showing the access to the eMR of [REDACTED]
- Report showing the access to the eMR of [REDACTED]
- Report showing the access to the eMR of [REDACTED]

- Report showing access to the eMR of [REDACTED]
- Screenshots taken from HBCIS:
  - Next of Kin [REDACTED]
  - Next of Kin [REDACTED]
  - Appointment Entry [REDACTED]
- Gold Coast Health EMR Business Rules
- Gold Coast Health Learning On+Line Portfolio report, printed on 1 February 2019
- Section 408E of the *Criminal Code Act 1899*
- section 187 and section 188 of the *Public Service Act 2008*
- Code of Conduct for the Queensland Public Service
- Human Resources Policy E10 – Discipline.

#### Revocation of access to electronic medical records

I understand you met with [REDACTED] on 24 January 2019 and were advised that due to the seriousness of the allegations against you and the implications the reported behaviour may have on patient safety, your access to electronic medical records had been temporarily revoked.

I understand you have since raised concerns with regards to the impact this arrangement has on your ability to perform your role as an [REDACTED]. I am advised your management team has taken steps which allow you to continue to work in your substantive role without the need to access medical records. I consider this arrangement is reasonable and appropriate under the circumstances and on this basis, I recommend this arrangement continues until this matter has been resolved.

#### Lawful directions

##### *Confidentiality*

You are directed to keep the details of this matter confidential as far as possible. You may however discuss the matter with your support person, union, legal representative or employee assistance. If you need to discuss this matter with any staff member you should make this request through [REDACTED], on telephone [REDACTED] in the first instance.

##### *Code of Conduct for the Queensland Public Service*

You are directed to behave appropriately towards any person who has provided information in respect of this matter or who may be a witness in the allegations against you. You are reminded the *Code of Conduct for the Queensland Public Service* clearly sets out the obligations that apply to you as a Queensland Health employee.

Should you fail to follow these lawful directions, you may be liable for disciplinary action that may lead to dismissal.

##### *Code of Conduct for the Queensland Public Service*

I remind you that you have an obligation to behave appropriately towards any person who has provided information in respect of this matter or who may be a witness in the allegations against you. You are reminded the *Code of Conduct for the Queensland Public Service* clearly sets out the obligations that apply to you as a GCHHS employee.

**Employee assistance**

Employee assistance offers a confidential counselling service which is free of charge to all employees of the GCHHS for up to three sessions per calendar year. Access to this service is by self-referral. Please contact Converge International on 1300 687 327.

**Questions**

If you have any questions in relation to this matter, please contact [REDACTED]

Yours sincerely

[REDACTED]

**Executive Director People and Corporate Services**  
Gold Coast Hospital and Health Service

6/02/2019