

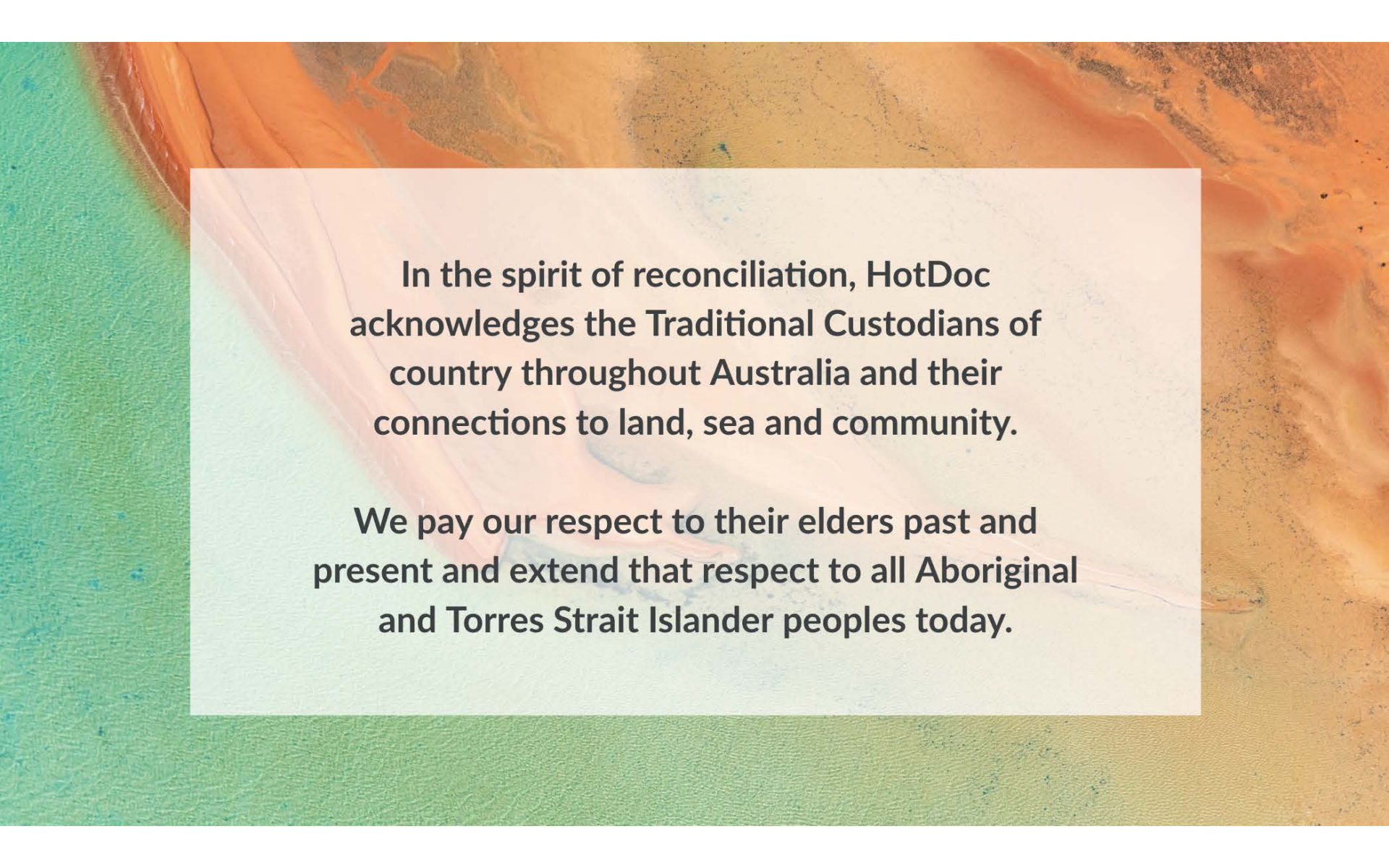


Informed Consent - Has Permission Been Granted?

WITH SARAH
BARTHOLOMEUSZ

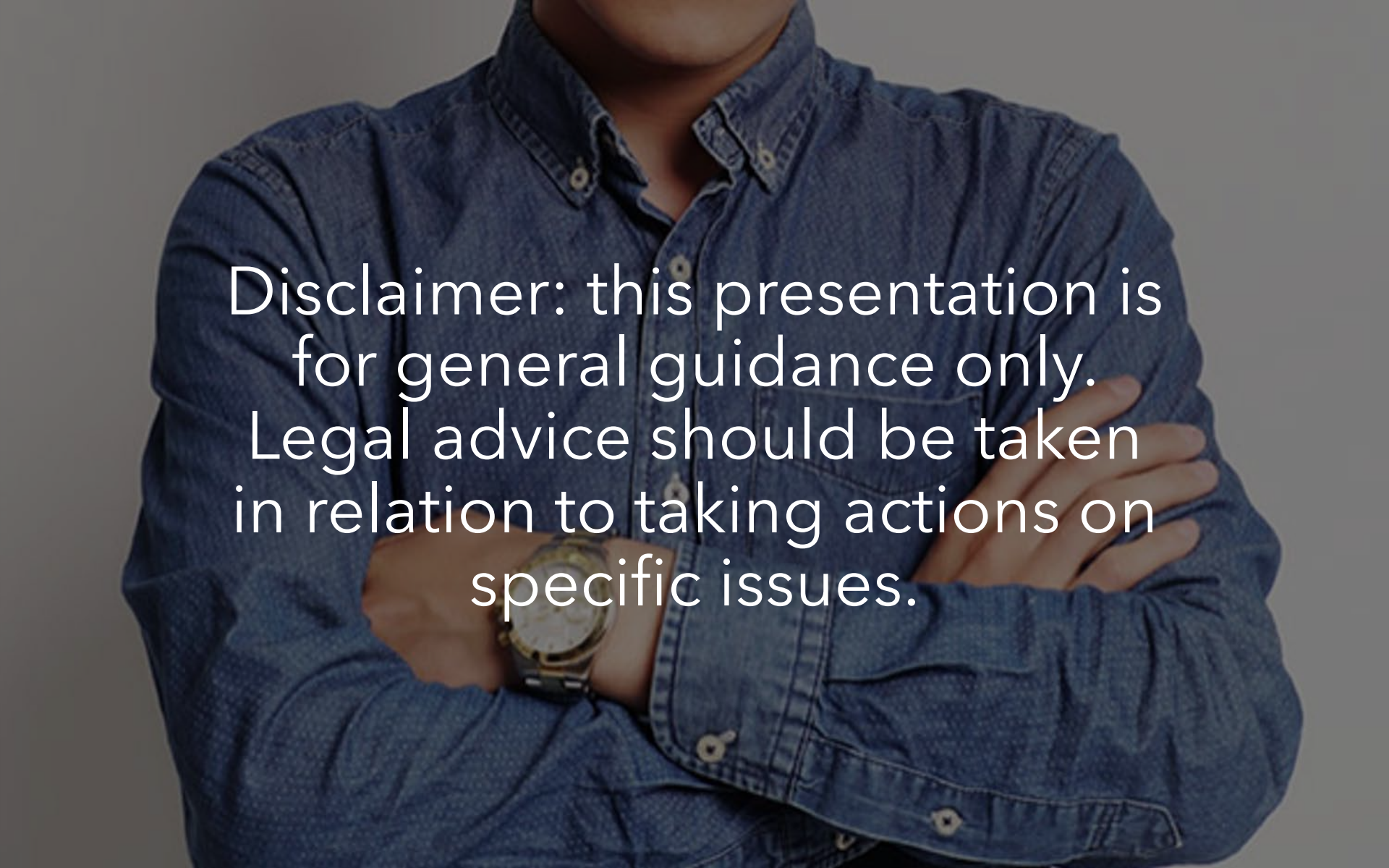
Facilitated by





**In the spirit of reconciliation, HotDoc
acknowledges the Traditional Custodians of
country throughout Australia and their
connections to land, sea and community.**

**We pay our respect to their elders past and
present and extend that respect to all Aboriginal
and Torres Strait Islander peoples today.**



Disclaimer: this presentation is
for general guidance only.
Legal advice should be taken
in relation to taking actions on
specific issues.



WHO AM I?



CRITICAL ISSUES

- What is informed consent
- How can I ensure I have informed consent

A person wearing a white lab coat is shown from the chest down, sitting at a desk and signing a document with a pen. The image is dimly lit with a blue tint. Overlaid on the image is a diagram showing the word 'Consent' at the top, with a vertical line leading down to a horizontal line. From the left end of this horizontal line, a bracket extends to the text 'Treating Patients'. From the right end of the horizontal line, a bracket extends to the text 'Advertising'.

Consent

Treating
Patients

Advertising



**UNDERSTAND THE LEGAL
FRAMEWORK:**

TREATING PATIENTS



Charter of Human Rights and Responsibilities Act 2006 (Vic)

A person must not be subject to *"medical treatment without his or her full, free and informed consent"*.

A photograph of a wooden desk with a laptop, a cup of coffee, a pen, and some papers. The text "Privacy Framework" is overlaid in the center.

Privacy Framework



Privacy Act 1988 (Cth)

- Promote the protection of the privacy of individuals
- Defines 'Privacy Principle Entity'
- Establishes the Privacy Principles

HEALTH SERVICE = APP ENTITY

- Assess, maintain or improve health
- Manage health outcomes
- Diagnose illness, disability or injury
- Treat illness, disability or injury; or
- Make records



CATEGORIES OF INFORMATION:

1. Personal Information
2. Sensitive Information
 - Health Information

ANY INFORMATION COLLECTED BY A HEALTH SERVICE PROVIDER

Includes:

- ❖ personal details (name and address)
- ❖ dates of treatment (admission/discharge)
- ❖ billing information (credit card details)
- ❖ Medicare Number
- ❖ diagnoses & treatment
- ❖ genetic information, imagery and biological samples

"Permitted Health Situation"

USE or DISCLOSURE

The use or disclosure is necessary for research or analysis relevant to public health or safety AND it is impracticable to obtain consent AND the disclosure is in accordance with legal guidelines and the practice reasonably believes the recipient will not disclose the information.

Genetic information may be used or disclosed where a health organisation has obtained that information in the course of providing a health service to a patient, and the practice reasonably believes that the disclosure of that genetic information is necessary to prevent or lessen a serious threat to the life, health or safety of a genetic relative of the patient.

The use or disclosure is necessary to prevent or lessen a serious threat to the life, health or safety of a patient.

COLLECTION

The information is necessary to provide a health service and it is either required under an Australian law or collected in accordance with the rules established by a competent medical body that deals with the obligations of professional confidentiality (i.e. AHPRA, AMA).

A patient has provided you with the health and medical information of their family members for the purpose of providing the patient with a health service

It is necessary for research or analysis relevant to public health and safety provided only that the information cannot be de-identified, it is impracticable for the practice to obtain consent and the collection is in accordance with approved guidelines.

It is necessary for the management, funding or monitoring of a health service provided only that the information cannot be



THE 13 PRIVACY PRINCIPLES



APP10. Quality of Information

APP11. Security of Information

APP12. Access to Information

APP13. Correction of Information



APP9. Government Identifiers (Medicare Numbers)



APP7. Marketing

APP8. Cross Border Disclosure



APP6. Use or Disclosure



APP3. Collection of Information

APP4. Dealing with information

APP5. Notification of Collection



APP2. Option to be anonymous



APP1. Open and transparent



Privacy Act

↳ Privacy Principles

- ↳ APP3.3(a): An APP Entity must not collect sensitive information without the consent of the individual
- ↳ APP6.1(a): An APP Entity must not use or disclose personal information for any secondary **purpose**
- ↳ APP7.4: An APP Entity may not use or disclose sensitive information for marketing purpose without consent



Purpose

A background image showing a business meeting. Two people in white shirts are looking at a smartphone held by one of them. Another person's hand is visible in the upper right, pointing. The image has a blue tint and a semi-transparent dark overlay.

Consent

A blurred background image of a business meeting. Several people in light blue shirts are visible. In the foreground, a person's hands are holding a dark smartphone. Another person's hand is pointing towards the phone. The overall scene suggests a collaborative work environment.

Capacity
Voluntary
Current & Specific
Informed

A blurred background image of a business meeting. Several people in light blue shirts are visible. In the foreground, a person's hands are holding a dark smartphone. Another person's hand is pointing towards the phone. The overall scene suggests a collaborative work environment.

Capacity
Voluntary
Current & Specific
Informed

A blurred background image of a business meeting. Several people in light blue shirts are visible. In the foreground, a person's hands are holding a dark blue smartphone. Another person's hand is pointing towards the phone. The overall scene suggests a collaborative work environment.

Capacity
Voluntary

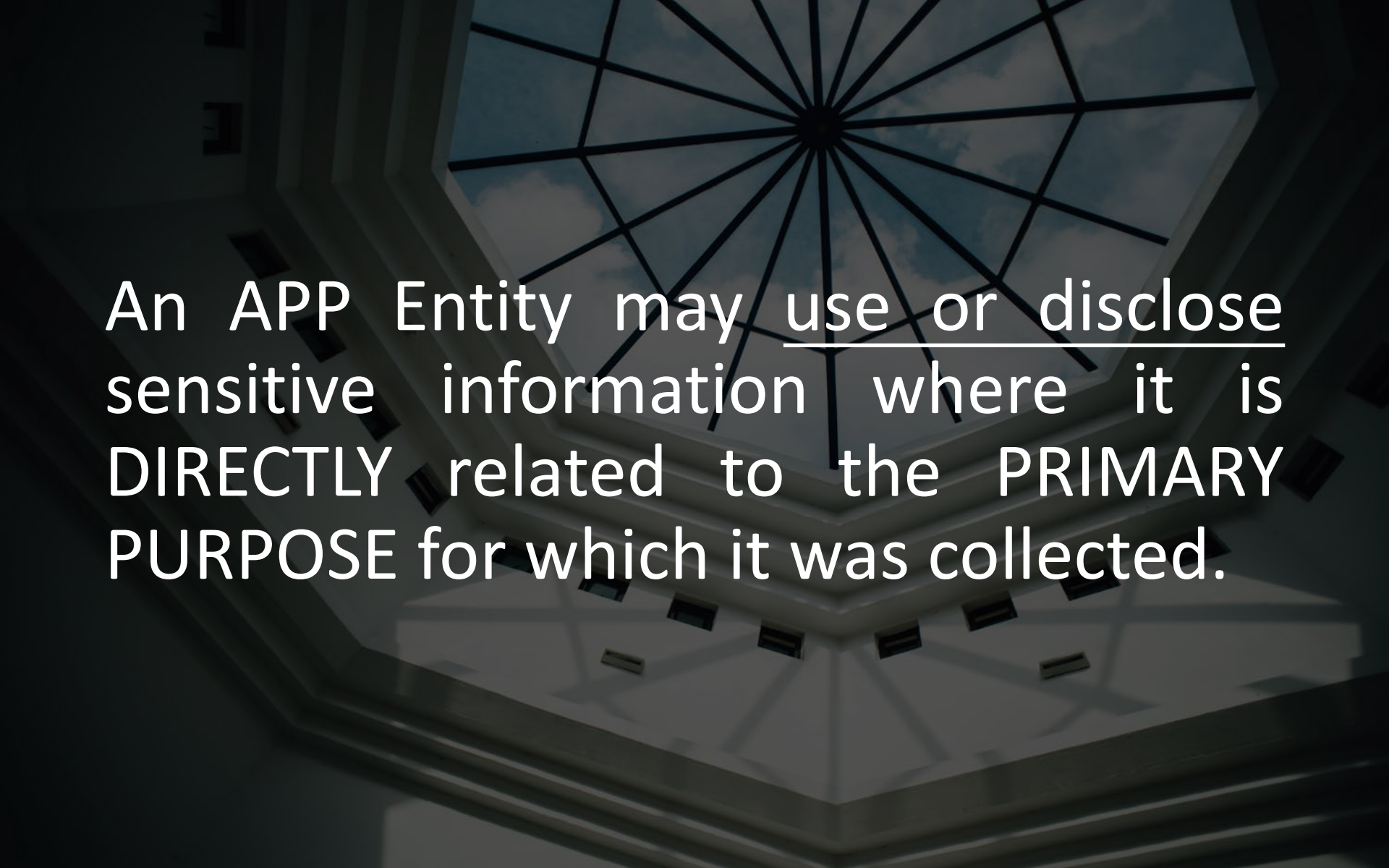
Current & Specific
Informed

A background image showing a group of people in a business meeting. In the foreground, a person's hand holds a dark smartphone. Another person's hand is visible, pointing towards the phone. The background is slightly blurred, showing other participants in light blue shirts. The overall tone is professional and collaborative.

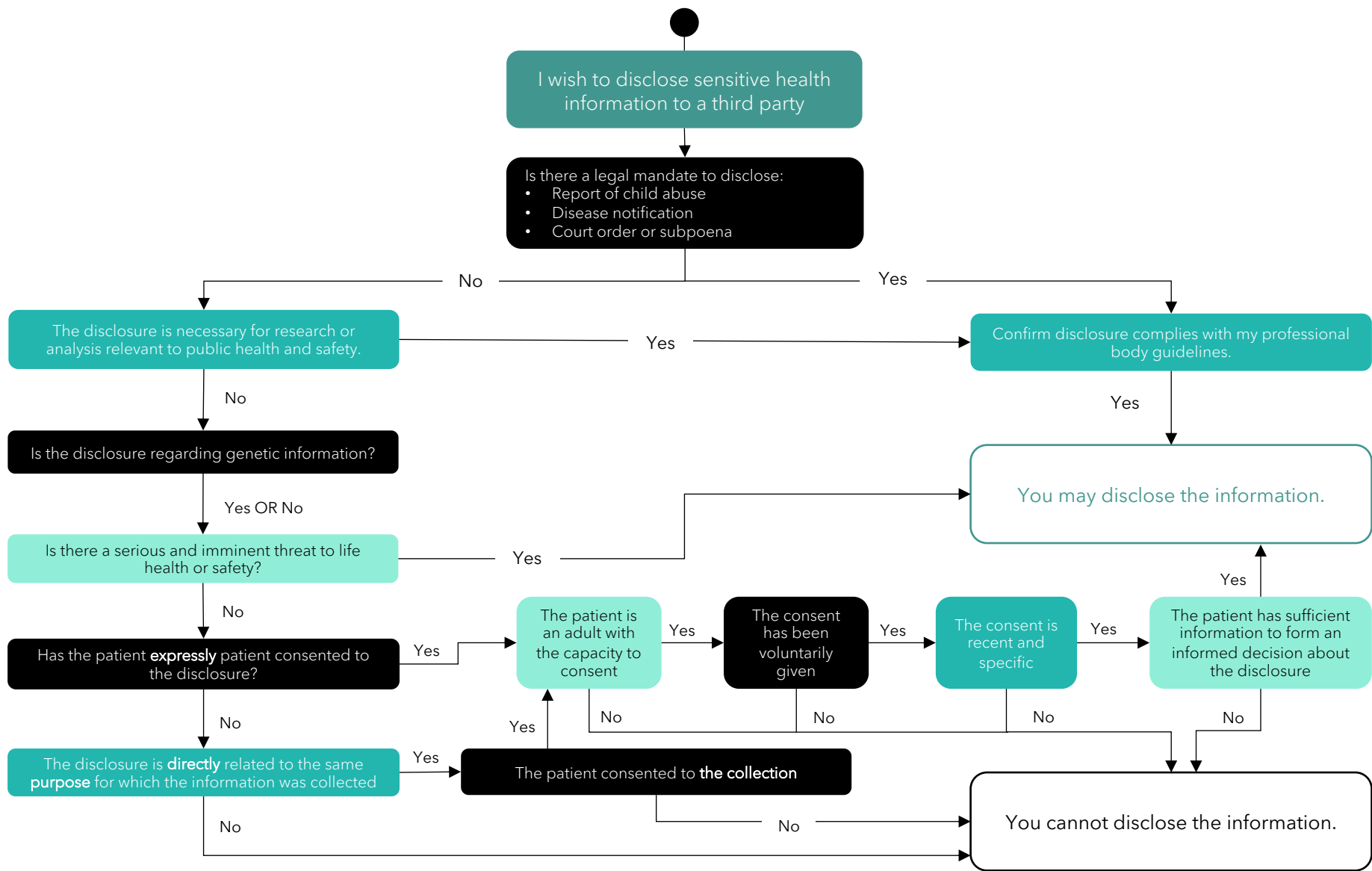
Capacity
Voluntary
Current & Specific
Informed



Implied Consent Express Consent



An APP Entity may use or disclose sensitive information where it is DIRECTLY related to the PRIMARY PURPOSE for which it was collected.



A photograph of a grand, ornate library interior. The room features high ceilings with intricate moldings and painted panels. The walls are lined with tall, dark wood bookshelves filled with numerous books. A large, ornate chandelier hangs from the ceiling on the left. In the center, there is a decorative alcove with a bust of a person. The overall atmosphere is one of historical grandeur and intellectual pursuit.

INFORMED CONSENT - advertising



UNDERSTAND THE LEGAL FRAMEWORK: ADVERTISING

Section 133 of the National Law



Consent must identify:

- the specific image(s)
- the specific publication(s)



USE A CONSENT FORM

Questions?



 **you legal for doctors**



JOIN THE CONVERSATION



Sarah & Magali will be available to answer any further questions via the **Hot Topic** post in our communities feed.

Join here <https://www.facebook.com/groups/fortheloveofhealthcare>

WIN A \$500 HAMPER FOR YOUR CLINIC

**Post in the community's feed a short VIDEO to
say what your clinic has found the most
challenging and the most rewarding in 2020
with the #wegotthis2020**

**If you're a HotDoc customer, feel free to give us
a shout out!**

This is open to ALL members of our community

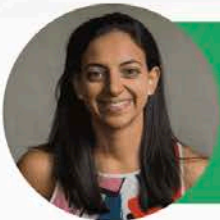
Entries close 11:59pm October 5th, 2020



GENERAL PRACTICE ESSENTIALS SERIES

Triage Principles and Tools for General Practice

Wednesday 7th October at 12:30pm AEDT



Presented by
Magali De Castro
Clinical Director at HotDoc

