



<p>Team Name: Health Information Services</p> <p>Team Lead: Regional Privacy &amp; Access Officer</p> <p>Approved by: VP - Corporate Services</p>	<p>Reference Number: ORG.1411.PL.504</p> <p>Program Area: Health Information Services</p> <p>Policy Section: Privacy &amp; Access</p>
<p>Issue Date: January 23, 2017</p> <p>Review Date:</p> <p>Revision Date:</p>	<p>Subject: Disclosure of Personal Health Information Requested for Legal Proceedings</p>

**SUBJECT:**

Disclosure of Personal Health Information Requested for Legal Proceedings.

**PURPOSE:**

To establish a consistent and controlled process for Disclosure of Personal Health Information required in connection with Legal proceedings.

- To ensure that the rights of individuals to privacy of health information, as set out under *The Personal Health Information Act* (PHIA), are protected, during disclosure of personal health information.
- To provide guidelines and to detail the conditions and restrictions on Southern Health-Santé Sud’s ability to disclose personal health information during legal proceedings in accordance with PHIA and Southern Health-Santé Sud’s Policies related to PHIA.
- To ensure compliance with Policy Occurrence Reporting and Managing Critical Incidents, Critical Occurrences, Occurrences, and Near Misses ORG.1810.PL.001, is maintained and adhered to during legal proceeding health record preparation.

**BOARD POLICY REFERENCE:**

Executive Limitation (EL-2) – Treatment of Clients

Executive Limitation (EL-7) – Corporate Risk

**POLICY:**

Southern Health-Santé Sud may be served with a wide variety of court and statutory orders including, but not limited to, subpoenas, search warrants, and Notices to Attend or Produce that compel the disclosure of health information. For further directive concerning personal health information requests from legal counsel refer to Use and Disclosure of Personal Health Information, ORG.1411.PL.502.

1. The Record or Recorded Information containing an Individual’s Personal Health Information is the property of the Trustee.
2. The original Record or Recorded Information cannot be removed from the Health Care Facility/Program unless approved by the Health Care Facility/Program Privacy Officer/Advisor.
3. All requests for Personal Health Information required as part of a Legal Proceeding, including requests from solicitors representing the Trustee, medical staff or other disciplines, must be coordinated by the Health Care Facility/Program Privacy Officer/Advisor.

4. The Trustee has the right to charge a fee for providing a copy of Personal Health Information requested. The person making the request must be informed of any charges associated with the request as set out in the Southern Health-Santé Sud Access-Disclosure-Release Fee Schedule ORG.1411.PL.502.SD.06.
5. The Health Care Facility/Program Privacy Officer/Advisor are the only persons permitted to make copies of Personal Health Information required or requested as part of a legal proceeding.
6. The Health Care Facility/Program Privacy Officer/Advisor is responsible for providing the Personal Health Information to the court in response to a subpoena or court order or to counsel in response to a request, even if the subpoena or request is addressed to a medical staff member or employee.
7. The Health Care Facility/Program Privacy Officer shall respond as promptly as possible to the request for Personal Health Information required for a legal proceeding.
8. The Health Care Facility/Program Privacy Officer may provide Personal Health Information to Crown attorneys in advance of court only when required in anticipation of or for use in the prosecution of an offence. This does not apply to Inquests or other civil proceedings.
9. The Personal Health Information may be faxed to the Crown attorney upon request and in accordance with the Transmission of Personal Health Information Via Facsimile Policy, ORG.1411.PL.407.
10. The Health Care Facility/Program Privacy Officer may consult with the Regional Privacy & Access Officer if there are concerns about disclosing the Personal Health Information requested in the course of a Legal Proceeding.
11. All requests for personal health information for legal proceedings should be retained separate from the client's medical record, including records of disclosure relevant to the disclosure for Legal Proceeding.

**DEFINITIONS:**

Legal Proceeding: Any proceeding in court or before a quasi-judicial tribunal that involves Southern Health-Santé Sud, a Health Care Facility/Program, a medical staff member or an employee who renders services at a Health Care Facility/Program.

PHIA Definitions [ORG.1411.PL.502.SD.01](#)

**REFERENCES:**

Southern Health-Santé Sud (2016) [ORG.1411.PL.407](#) *Transmission of Personal Health Information Via Facsimile.*

Southern Health-Santé Sud (2015) [ORG.1411.PL.502](#) *Use and Disclosure of Personal Health Information.*

Southern Health-Santé Sud (2017) [ORG.1411.PL.502.SD.06](#) *Access-Disclosure-Release of Personal Health Information Fee Schedule.*

Southern Health-Santé Sud (2015) [ORG.1810.PL.001](#) *Occurrence Reporting and Managing Critical Incidents, Critical Occurrences, Occurrences, and Near Misses.*

*The Personal Health Information Act*

*The Personal Health Information Regulations*

WRHA (2010) *Disclosure of Personal Health Information Requested for Legal Proceedings* 10.40.142