



<p>Team Name: Health Information Services</p> <p>Team Lead: Regional Privacy &amp; Access Officer</p> <p>Approved by: Regional Lead – Corporate Services &amp; Chief Financial Officer</p>	<p>Reference Number: ORG.1411.PL.502</p> <p>Program Area: Health Information Services</p> <p>Policy Section: Privacy &amp; Access</p>
<p>Issue Date: April 8 2015</p> <p>Revised Date:</p> <p>Revision Date: December 20, 2021</p>	<p>Subject: Use and Disclosure of Personal Health Information</p>

*Use of pre-printed documents: Users are to refer to the electronic version of this document located on the Southern Health-Santé Sud Health Provider Site to ensure the most current document is consulted.*

**POLICY SUBJECT:**

Use and Disclosure of Personal Health Information

**PURPOSE:**

To ensure that the Individual’s right to Privacy of their Personal Health Information including Demographic Information is protected during Use and Disclosure as set out under *The Personal Health Information Act* (“PHIA”).

To detail the conditions and restrictions on the Trustee’s ability to Use and Disclose Personal Health Information.

**BOARD POLICY REFERENCE:**

- Executive limitation (EL-2) Treatment of Clients
- Executive limitation (EL-7) Corporate Risk

**POLICY:**

1. The Trustee will ensure that the Individual’s right to Privacy of their Personal Health Information including Demographic Information is protected during Use or Disclosure as set out under *The Personal Health Information Act* (“PHIA”).
2. The Trustee will detail the conditions and restrictions on the Trustee’s ability to Use or Disclose Personal Health Information with or without consent.
3. The Trustee will detail the conditions and restrictions on the Trustee to obtain Express Consent or Implied Consent to Use or Disclose Personal Health Information.

4. The Trustee will ensure consent is obtained in accordance with *The Personal Health Information Act* (“PHIA”).
5. **USE OF PERSONAL HEALTH INFORMATION:** is revealing Personal Health Information to someone within the Trustee’s own organization who needs to know the information to do their job.
  - 5.1 A Trustee authorized to Use Personal Health Information must limit Use to the minimum amount of information necessary to accomplish the purpose for which it is Used.
  - 5.2 A Trustee shall limit the Use of Personal Health Information to those Persons Associated with the Trustee who needs to know the information to carry out the purpose for which the information was collected or received.
  - 5.3 Before using Personal Health Information, reasonable steps must be taken to ensure the information is accurate, up to date, complete and not misleading.
  - 5.4 Personal Health Information may only be Used for the purpose for which it was collected or received, and shall not be Used for any other purpose unless:
    - The other purpose is directly related to the purpose for which the information was collected or received; or
    - The Individual the Personal Health Information is about has consented to the Use; or
    - Use of the information is necessary to prevent or lessen:
      - A risk of harm to the health or safety of a minor, or
      - A risk of serious harm to the health or safety of the individual is about or another individual, or to public health or public safety;
    - The information is Demographic Information about an Individual, or is his or her PHIN, and is Used to:
      - Confirm eligibility for Health Care or payment for Health Care; or
      - Verify the accuracy of the Demographic Information or PHIN; or
    - To deliver, monitor or evaluate a program that relates to the provision of Health Care or payment for Health Care by the Trustee; or
    - The information is Demographic Information about an Individual and is Used to collect a debt the Individual owes to the Trustee or
    - For research and/or planning that relates to the provision of Health Care or payment for Health Care by the Trustee; or
    - The information is used for educating individuals respecting the provision of health care, including:
      - Employees and agents of the Trustee, students training to be health professionals, and

- Health professionals who have been granted privileges to provide services at a health care facility operated by the Trustee.
  - If it is Used for the same purpose for which it was Disclosed to the Trustee; or
  - Use of the information is authorized by an enactment of Manitoba or Canada.
- 5.5 Personal Health Information cannot be Used unless the intended Use is authorized under PHIA or with the consent of the Individual.
- 5.6 If a Trustee has collected or received personal health information about an employee or perspective employee for a purpose unrelated to their employment, the Trustee must not use the information for a purpose related to their employment without first obtaining their consent.

6. **CONSENT FOR USE AND DISCLOSURE OF PERSONAL HEALTH INFORMATION:**

- 6.1 The Trustee shall obtain an individual's consent for the Use or Disclosure of Personal Health Information where required under *The Personal Health Information Act*.
- 6.2 When PHIA requires an Individual's consent to Use or Disclose Personal Health Information, the consent must:
  - Relate to the purpose for which the information is Used or Disclosed;
  - Be knowledgeable and understood by the Individual;
  - Be voluntary; and
  - Not be obtained through misrepresentation.
- 6.3 Consent may be Express Consent or Implied Consent and need not be in writing.
- 6.4 Consent must be Express Consent, and not Implied Consent, if the Trustee:
  - Makes a Disclosure to a person who is not a Trustee;
  - Makes a Disclosure to another Trustee, but the Disclosure is not for the purpose of providing Health Care or assisting in providing Health Care; or
  - Requires consent under subsection 21(2) of PHIA for employee's information.
- 6.5 The Trustee may act in accordance with an Express Consent (written consent) or a record of an Express Consent having been given and obtained by another Trustee, without verifying that the consent meets the requirements stated in section 6.2 of this policy statement unless the Trustee has reason to believe that the requirements have not been met.
- 6.6 An Individual may give consent subject to conditions as long as the conditions do not restrict or prohibit the Trustee from recording Personal Health Information that is required by law, or by established standards, or by professional or institutional practice.

6.7 An Individual who has given consent, whether Express Consent or Implied, to the Use or Disclosure of Personal Health Information may withdraw it by notifying the Trustee. A withdrawal does not have a retroactive effect.

7. **DISCLOSURE OF PERSONAL HEALTH INFORMATION WITHOUT CONSENT:** Revealing the Personal Health Information outside the Trustee's organization.

7.1 Personal Health Information may be Disclosed without consent of the Individual, and **only to the extent the recipient needs to know the information**, in the following circumstances:

- To a person who is or will be providing, or has provided Health Care to the Individual, to the extent necessary to provide Health Care to the Individual, unless the Individual has instructed the Trustee not to make the Disclosure;
- To any person if the Trustee reasonably believes that the Disclosure is necessary to prevent or lessen a risk of harm to the health or safety of a minor;
- To any person if the Trustee reasonable believes that the Disclosure is necessary to prevent or lessen a risk of serious harm to the health or safety of:
  - The Individual the information is about; or
  - Another Individual; or
  - To public health or public safety;
- For the purpose of:
  - Contacting a relative or friend of an Individual who is injured, incapacitated or ill;
  - Assisting in identifying a deceased Individual; or
  - Informing the representative or a relative of a deceased Individual, or any other person it is reasonable to inform in the circumstances, of the Individual's death;
- To a relative of a deceased Individual if the Trustee reasonably believes that Disclosure is not an unreasonable invasion of the deceased's Privacy;
- Required for:
  - The purpose of peer review by Health Professionals;
  - The purpose of review by a standards committee established to study or evaluate Health Care practice in a Health Care Facility or Health Services Agency;
  - The purpose of a body with statutory responsibility for the discipline of Health Professionals or for the quality or standards of professional services provided by Health Professionals; or
  - The purpose of risk management assessment;
- For the purpose of:
  - Delivering, evaluating or monitoring a program of the Trustee that relates to the provision of Health Care or payment for Health Care, or
  - For research and planning that relates to the provision of Health Care or payment for Health Care by the Trustee;

- To another Trustee who requires the information to evaluate or monitor the programs, services or benefits the other Trustee provides;
- For the purpose of determining or verifying the Individual's eligibility for a program, service or benefit, if the information Disclosed is limited to the Individual's Demographic Information;
- To another Trustee for the purpose of de-identifying the Personal Health Information;
- To a computerized health information network established by the government or a government agency; the Government of Canada or of another province or territory or an agency of such a government; an organization representing one or more governments; or a Trustee that is a public body specified in the regulation in which Personal Health Information is Recorded for the purpose of:
  - Providing Health Care;
  - Facilitating the evaluation or monitoring of a program that relates to the provision of Health Care or payment for Health Care; or
  - Facilitating research and planning that relates to the provision of Health Care or payment for Health Care;
- To the government, another public body, or the government of another jurisdiction or an agency of such a government, to the extent necessary to obtain payment for Health Care provided to the Individual the Personal Health Information is about;
- For the purpose of collecting a debt owed by the Individual to the Trustee if the information Disclosed is limited to Demographic Information;
- To a person who requires the Personal Health Information to carry out an audit for or provide legal services to a Trustee, if the Trustee reasonably believes that the person will not Use or Disclose the Personal Health Information for any other purpose and will take appropriate steps to protect it;
- Required in anticipation of or for use in a civil or quasi-judicial proceeding to which the Trustee is a party;
- Required in anticipation of or for use in the prosecution of an offence;
- Required to comply with a subpoena, warrant or order issued or made by a court, person or body with jurisdiction to compel the production of the Personal Health Information, or with a rule of court concerning the production of the Personal Health Information;
- Required by police to assist in locating an individual reported as being a missing person, if the information disclosed is limited to demographic information;
- For the purpose of
  - An investigation under or enforcement of an enactment of Manitoba with respect to payment for Health Care; or
  - An investigation or enforcement with respect to a fraud relating to payment for Health Care;
- For the purpose of complying with an arrangement or agreement entered into under an enactment of Manitoba or Canada; or
- Authorized or required by an enactment of Manitoba or Canada.

- 7.2 Before disclosing Personal Health Information, reasonable steps shall be taken to ensure the information is accurate, up to date, complete and not misleading.
- 7.3 The Trustee and/or the Health Professional shall follow the processes outlined in the policy CLI.4110.PL.016, Personal Health Information Disclosure Due to Risk of Serious Harm when disclosing Personal Health Information without consent to prevent or lessen a risk of serious harm.
- 7.4 For the purpose of sharing Personal Health Information with other Trustees and/or Service Providers, for the purpose of improving outcomes for children and adolescent clients, the Trustee and/or the Health Professional can follow the guidelines set out in policy ORG.1411.PL.411, Information and Sharing under *The Protecting Children (Information Sharing) Act (PCISA)*.
- 7.5 A Record of Disclosure using a prescribed form shall be retained that includes what Personal Health Information was Disclosed and to whom.

7.6 **Timely Disclosure to Family**

If an Individual is receiving Health Care in a Health Care Facility or in their home and an immediate family member, or someone whom the Individual is known to have a close personal relationship, asks the Trustee to Disclose Information About Care Currently Being Provided to the Individual, the Trustee must Disclose the information as soon as reasonably possible, but not later than:

- 24 hours after receiving the request if the information is about a hospital inpatient; as defined in ORG.1411.PL.502.SD.01 PHIA Definitions, Information about Care Currently Being Provided.
- 72 hours after receiving the request, in any other case as defined in ORG.1411.PL.502.SD.01 PHIA Definitions, Information about Care Currently Being Provided.
- Information may only be Disclosed if:
  - The information is about Health Care currently being provided;
  - The Disclosure is made in accordance with good medical or other professional practice; and
  - The Trustee reasonably believes the Disclosure to be acceptable to the Individual;
  - The Disclosure is not contrary to the express request of the Individual.
- Review the Record to determine if it includes information Recorded in a designated Psychiatric Facility. This information may be disclosed in accordance with PHIA, as it has already been Disclosed to Southern Health-Santé Sud, the Trustee. These Records should be reviewed carefully prior to any further Disclosure to ensure Disclosure will not harm the Individual in any way.
- Disclosure of Recorded Information maintained in a designated Psychiatric Facility pursuant to *The Mental Health Act* shall be processed in accordance with

ORG.1411.PL.102 Access to, Disclosure of and Corrections to the Clinical Record under *The Mental Health Act*.

#### **7.7 Disclosure About an Individual's Condition**

As long as Disclosure is not contrary to the express request of the Individual, the Trustee may Disclose to any person the following information about an Individual who is a patient or a resident of a Health Care Facility:

- The Individual's name;
- The Individual's general health status, described as critical, poor, fair, stable or satisfactory, or in terms indicating similar conditions;
- The Individual's location, unless Disclosure of the location would reveal specific information about the physical or mental condition of the Individual.

#### **7.8 No Disclosure if Possible Harm**

The Trustee shall not Disclose Personal Health Information if the Trustee has reason to believe that the Disclosure might lead to harm to the Individual the Personal Health Information is about.

#### **DEFINITIONS:**

See Supporting Document ORG.1411.PL.502.SD.01 PHIA Definitions.

#### **PROCEDURE:**

1. Where consent is necessary to Use or Disclose Personal Health Information, the Trustee shall determine whether consent will be Implied or Express Consent and if Express Consent, consent will be sought from the Individual.
2. The Privacy Officer may be consulted to determine whether Implied or Express Consent should be obtained, on a case-by-case basis.
3. When a Trustee determines that the Personal Health Information can be Disclosed in accordance with the Implied Consent model, the Personal Health Information Disclosed and the reason for Disclosure shall be documented in the Individual's health Record.
4. When a Trustee determines that Express Consent is required for Use or Disclosure of the Personal Health Information, the Trustee must obtain consent from the Individual the information is about by:
  - Completing the Consent for Disclosure of Personal Health Information form or
  - Documenting in the Individuals health Record that verbal consent was obtained and the reason for the Use or Disclosure.
5. Requests for Disclosure of Personal Health Information may be coordinated with a relevant Manager or designate and/or the Site/Program Privacy Officer/Privacy Advisor.

6. The Record of Disclosure/Release of Personal Health Information may be in an electronic format, paper format or documentation in the health Record, i.e. “cc’s” identified on the applicable document. The record shall also include how the Disclosure/Release was made (i.e. verbal, fax, etc.)
7. A Record of Disclosure/Release of Personal Health Information is not required for routine routing of documents.

**SUPPORTING DOCUMENTS:**

[ORG.1411.PL.502.FORM.01](#) Consent to Disclose Personal Health Information

[ORG.1411.PL.502.FORM.01.F](#) Consent to Disclose Personal Health Information French

[ORG.1411.PL.502.FORM.02](#) Consent to Use Personal Health Information

[ORG.1411.PL.502.FORM.02.F](#) Consent to Use Personal Health Information French

[ORG.1411.PL.502.FORM.03](#) Record of Access/Disclosure/Release of Personal Health Information Form

[ORG.1411.PL.502.FORM.04](#) Record of Access/Disclosure/Release of Personal Health Information (Community) Form

[ORG.1411.PL.502.FORM.05](#) Record of Access Disclosure Release of Personal Health Information Form

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

[ORG.1411.PL.502.SD.06](#) Access/Disclosure/Release of Personal Health Information Fee Schedule

**REFERENCES:**

*The Personal Health Information Act (PHIA)*

The Personal Health Information Regulations

WRHA, Disclosure of Personal Health Information without Consent, Policy #10.40.141

WRHA, Use of Personal Health Information, Policy #10.40.100

WRHA, Consent to Use or Disclose Personal Health Information, Policy #10.40.105

CLI.4110.PL.016 Personal Health Information Disclosure Due to Risk of Serious Harm

CLI.4110.PL.016.SD.01 Personal Health Information (PHI) Disclosure Due to Risk of Serious Harm Algorithm

ORG.1411.PL.411 Information and Sharing under *The Protecting Children (Information Sharing) Act (PCISA)*