

 <p>Winnipeg Regional Health Authority Office régional de la santé de Winnipeg Caring for Health À l'écoute de notre santé</p> <p><b>POLICY</b></p>	<b>REGIONAL</b>		Level: <b>1</b>
	Applicable to all WRHA governed sites and facilities (including hospitals and personal care homes), and all funded hospitals and personal care homes. All other funded entities are excluded unless set out within a particular Service Purchase Agreement.		
	Policy Name: <b>Disclosure of Personal Health Information to Police</b>	Policy Number: 10.40.140	Page: 1 of 6
	Approval Signature: <i>Original signed by A. Wilgosh</i>	Section: <b>General Administration</b>	
Date: April 2010	Supercedes: June 23, 2000		

## 1.0 PURPOSE:

To ensure that an Individual's right to Privacy of their Personal Health Information including Demographic Information is protected during disclosure to Police as set out under The *Personal Health Information Act* ("PHIA").

## 2.0 DEFINITIONS:

- 2.1 Access: The right of an Individual, or a Person Permitted to Exercise the Rights of an Individual, to examine (view) and receive a copy of the Individual's Personal Health Information Maintained by the Trustee.
- 2.2 Demographic Information: An Individual's name, address, telephone number, and email address.
- 2.3 Disclosure: Revealing the Personal Health Information outside the Trustee, i.e. to other Trustees, to family and friends of the Individual, or to other persons legally entitled to have Personal Health Information released to them.
- 2.4 Health Care: Any care, service or procedure provided to diagnose, treat or maintain an Individual's health; provided to prevent disease or injury or promote Health Care; or that affects the structure or a function of the body and includes the sale or dispensing of a drug, device, equipment or other item pursuant to a prescription.
- 2.5 Health Care Facility: A hospital, personal care home, Psychiatric Facility, medical clinic, laboratory, CancerCare Manitoba and community health centre or other facility in which Health Care is provided and that is designated in the PHIA regulation.
- 2.6 Health Professional: A person who is licensed or registered to provide Health Care under an Act of the Legislature or who is a member of a class of persons designated as Health Professionals in the PHIA regulation.
- 2.7 Health Services Agency: An organization that provides Health Care such as community or home-based Health Care pursuant to an agreement with the Trustee.
- 2.8 Individual: A patient, client or resident receiving health care services within the WRHA/ Health Care Facility. For the purpose of Access, correction, Use and Disclosure of Personal Health Information includes Persons Permitted to Exercise the Rights of an Individual.

- 2.9 Maintain: In relation to Personal Health Information, to have custody or control of the information.
- 2.10 Personal Health Information: Recorded information about an identifiable Individual that relates to:
- the Individual's health, or Health Care history, including genetic information about the Individual;
  - the provision of Health Care to the Individual; or
  - payment for Health Care provided to the Individual;
- and includes:
- the PHIN (personal health identification number) and any other identification number, symbol or particular assigned to an Individual; and
  - any identifying information about the Individual that is collected in the course of, and is incidental to, the provision of Health Care or payment for Health Care;
- and for further clarity includes:
- personal information such as financial position, home conditions, domestic difficulties or any other private matters relating to the Individual which have been Disclosed to the Trustee;
- and for the purpose of the Confidentiality policy:
- any Personal Health Information exchanged verbally about the Individual.
- 2.11 Personal Representative includes any of the following:
- an Executor/Executrix or joint Executor/Executrix named in a deceased Individual's will; or
  - a court appointed Administrator or joint Administrator of a person's estate.
- 2.12 Persons Permitted to Exercise the Rights of an Individual means:
- 2.12.1 (a) any person with written authorization from the Individual to act on the Individual's behalf;
- (b) a proxy appointed by the Individual under *The Health Care Directives Act*;
- (c) a committee appointed for the Individual under *The Mental Health Act* if the committee has the power to make Health Care decisions on the Individual's behalf;
- (d) a substitute decision maker for personal care appointed for the Individual under *The Vulnerable Persons Living with a Mental Disability Act* if the exercise of the right relates to the powers and duties of the substitute decision maker;
- (e) the parent or guardian of an Individual who is a minor, if the minor does not have the capacity to make Health Care decisions;
- (f) if the Individual is deceased, his or her Personal Representative.
- 2.12.2 If it is reasonable to believe that no person listed in 2.12.1 exists or is available, the adult person listed first in the following who is readily available and willing to act may exercise the rights of an Individual who lacks the capacity to do so:
- (a) the Individual's spouse, or common-law partner, with whom the

Individual is cohabiting;

- (b) a son or daughter;
- (c) a parent, if the Individual is an adult;
- (d) a brother or sister;
- (e) a person with whom the Individual is known to have a close personal relationship;
- (f) a grandparent;
- (g) a grandchild;
- (h) an aunt or uncle;
- (i) a nephew or niece.

**Ranking:** The older or oldest of two or more relatives described in 2.12.2 is to be preferred to another of those relatives.

- 2.13 **Police:** The local Police service or the Royal Canadian Mounted Police detachment that is responsible for providing law enforcement services.
- 2.14 **Privacy:** The fundamental right of an Individual to control the collection, Use and Disclosure of their Personal Health Information.
- 2.15 **Privacy Officer:** An employee designated by the WRHA or the Health Care Facility whose responsibilities include dealing with requests from individuals who wish to examine, receive a copy or make a correction to Personal Health Information Maintained by the Trustee and facilitating the Trustee's compliance with PHIA. The definition is intended to mean the Privacy Officer and/or their delegate.
- 2.16 **Psychiatric Facility:** A place designated in the regulation of *The Mental Health Act* as a facility for the observation, assessment, diagnosis and treatment of persons who suffer from mental disorders.
- 2.17 **Record or Recorded Information:** A Record of information in any form, and includes information that is written, photographed, Recorded or stored in any manner, on any storage medium or by any means, including by graphic, electronic or mechanical means, but does not include electronic software or any mechanism that produces Records.
- 2.18 **Site:** A Health Care Facility, community health centre, community office within the WRHA.
- 2.19 **Trustee:** A Health Professional, Health Care Facility, public body, or Health Services Agency that collects or Maintains Personal Health Information. For clarity, the WRHA as a public body is the Trustee of the Personal Health Information collected and Maintained within Health Care Facilities and Sites owned and/or operated by the WRHA and includes Community Health Services. The other hospitals and personal care homes within the region are Trustees of the Personal Health Information collected and Maintained at each Health Care Facility.
- 2.20 **Use:** Involves revealing Personal Health Information to someone within the Trustee's own organization who needs to know the information to do their job. Use includes processing, reproduction, transmission and transportation of Personal Health Information.

### 3.0 **POLICY:**

- 3.1 Personal Health Information may be Disclosed to the Police with consent from the Individual the information is about.
- 3.2 Disclosure of Recorded Information in a designated Psychiatric Facility or unit shall be processed in accordance with the WRHA Policy: Access to, Disclosure of and Corrections to the Clinical Record under *The Mental Health Act*.
- 3.3 Personal Health Information may be Disclosed to the Police without consent if one of the following exceptions apply:
- 3.3.1 **Disclosure about Individual's Condition** as long as disclosure is not contrary to the express request of the Individual or Persons Permitted to Exercise the Rights of an Individual:
- 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.
- 3.3.2 **Immediate Threats/Public Safety** if the Trustee reasonably believes that the Disclosure is necessary to prevent or lessen a serious and immediate threat to:
- the health or safety of the Individual the information is about or another Individual; or
  - public health or public safety.
- 3.3.3 **Notification** 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.
- 3.3.4 **Civil or Quasi-judicial Proceedings** to which the Trustee is a party, or is required in anticipation of or for Use in the prosecution of an offence.
- 3.3.5 **Subpoena, Warrant, Court Order or Court Rule** upon proof of a valid subpoena, warrant, court order or court rule, information specifically requested may be Disclosed. The Site Privacy Officer shall manage the request.
- 3.3.6 **Missing Persons** to assist the Police in locating an Individual reported as being a missing person, the information Disclosed shall be limited to Demographic Information only.
- 3.3.7 **Authorized Under an Enactment** if the Disclosure is authorized or required by an enactment of Manitoba or Canada.

- 3.4 Police should be provided with a copy of the Personal Health Information rather than the original documents. However, if the Police have a valid subpoena compelling the Disclosure of the original document, a copy of the original document must be made and retained by the Trustee prior to the original document being released.
- 3.5 Disclosure of Personal Health Information shall be limited only to the extent that the recipient needs to know the information (i.e. they may not be entitled to the entire chart, perhaps only the relevant notes from a specific visit to the Health Care Facility).
- 3.6 When the Police request to interview an Individual receiving Health Care, staff may not Disclose Personal Health Information unless the Individual provides consent or Disclosure is allowed as set out in 3.3.2 of this policy or another enactment of Manitoba or Canada such as the *Child and Family Service Act* or the *Criminal Code*. If the Individual does not consent or is unable to be interviewed due to their condition, the Police shall be so informed.
- 3.7 The Trustee shall not notify the Police of an Individual's discharge unless the Individual consents or the disclosure is in accordance with Section 3.3.2 of this policy.
- 3.8 Staff may become aware of an event involving an Individual that staff believes should be reported to the Police. Disclosure of such information must be with the Individual's consent or in accordance with Section 3.3.2 of this policy.
- 3.9 Any reporting of persons treated for a gunshot or stab wound shall be in accordance with *The Gunshot and Stab Wounds Mandatory Reporting Act*.

#### **4.0 PROCEDURE:**

- 4.1 Requests for Disclosure of Personal Health Information with or without written consent shall be forwarded to the Site Privacy Officer for processing with the exception of 3.3.1, 3.3.2 and 3.3.3 of this policy.
- 4.2 The Privacy Officer shall review the request to determine the urgency of the request and will process accordingly.
- 4.3 The information that is being provided shall be documented in the Individual's chart or on the consent form.
- 4.4 Disclosure of Personal Health Information to Police With Consent:
- 4.4.1 Consent must be documented on:
- the WRHA form, "Disclosure of Personal Health Information to Police with Consent"; or
  - the Winnipeg Police Service form P-346A; or
  - on another form that meets the criteria for a valid consent for Disclosure of Personal Health Information.
- 4.5 Disclosure of Personal Health Information Without Consent:

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4.5.1 Completion of the following forms is required prior to release of Personal Health Information:

- The WRHA form, “Disclosure of Personal Health Information to Police Without Consent”, or
- The Winnipeg Police Service Form P-346B.

## **5.0 REFERENCES:**

- 5.1 Access to, Disclosure of and Corrections to the Clinical Record under *The Mental Health Act* Policy #10.40.050.
- 5.2 *The Gunshot and Stab Wound Mandatory Reporting Act.*
- 5.3 *The Gunshot and Stab Wound Mandatory Reporting Regulation.*
- 5.4 *The Personal Health Information Act (Manitoba).*
- 5.5 *The Personal Health Information Act Regulations.*

**Policy Contact:** Landis Esposito, WRHA Chief Privacy Officer