

 <p>Winnipeg Regional Health Authority Office régional de la santé de Winnipeg Caring for Health À l'écoute de notre santé</p> <p style="text-align: center;">POLICY</p>	REGIONAL		Level: 1
	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: Disclosure of Information to Affiliated Foundations	Policy Number: 10.40.145	Page 1 of 5
	Approval Signature: <i>Original signed by A. Wilgosh</i>	Section: General Administration	
Date: April 2010	Supercedes: New		

1.0 **PURPOSE:**

- 1.1 To ensure that the Privacy of an Individual's name and mailing address is protected during Disclosure for the purpose of fundraising to foundations affiliated with Trustees, as set out under *The Personal Health Information Act* ("PHIA").
- 1.2 To detail the conditions and restrictions on the ability of hospitals and personal care homes to Disclose information to affiliated foundations.

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 Disclosure of Personal Health Information: 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.
- 2.3 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.
- 2.4 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.
- 2.5 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.
- 2.6 Health Services Agency: An organization that provides Health Care such as community or home-based Health Care pursuant to an agreement with the Trustee.

- 2.7 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.
- 2.8 Maintain: In relation to Personal Health Information, to have custody or control of the information.
- 2.9 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 an identifiable Individual.
- 2.10 Personal Representative:
- 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.
- 2.11 Persons Permitted to Exercise the Rights of an Individual means:
- 2.11.1 (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.

2.11.2 If it is reasonable to believe that no person listed in 2.11.1 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 2.11.2 is to be preferred to another of those relatives.

2.12 PHIA: *The Personal Health Information Act* (Manitoba).

2.13 PHIN: The personal health identification number assigned to an Individual by the minister to uniquely identify the Individual for Health Care purposes.

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 Hospitals and personal care homes may only Disclose an Individual's name and mailing address to a charitable fundraising foundation affiliated with the Health Care Facility.
- 3.2 All Disclosures of names and mailing addresses to the affiliated foundation shall be coordinated with the Site Privacy Officer.
- 3.3 Hospitals may Disclose the names and mailing address of an Individual who has been a hospital in-patient or, Individuals who are not a hospital in-patient who are or have received services from the hospital, except in the following circumstances:
- The Individual has objected to the Disclosure of their name and mailing address to the foundation;
 - The Individual has died while in the hospital; or
 - The Individual is under the age of 18 (for the purpose of this policy only).
- 3.4 Personal care homes may Disclose the name and mailing address of an Individual who is or has been a resident of the personal care home, except in the following circumstances:
- The Individual has objected to the Disclosure of their name and mailing address to the foundation; or
 - The Individual has died while in the personal care home.
- 3.5 Notice must be provided to Individuals, advising that their names and mailing addresses may be provided to the fundraising foundation affiliated with the facility.
- 3.6 Individuals must be given a reasonable opportunity to object to the Disclosure of their information.
- 3.7 If an Individual objects to the Disclosure of their information, their name and mailing address shall not be Disclosed to the foundation.
- 3.8 When an Individual objects to the Disclosure of their name and mailing address to the foundation, the person receiving the objection shall notify the Site Privacy Officer.

3.9 Hospitals and personal care homes shall enter into a written agreement with an affiliated foundation acknowledging that the foundation agrees to protect the information against such risks as unauthorized Access, Use, Disclosure, or destruction.

4.0 **PROCEDURE:**

4.1 **Disclosure to a Foundation Affiliated with a Hospital**

4.1.1 Names and mailing addresses of Individuals with the exception of those listed in 3.3, will be provided to the foundation on a quarterly basis. For example names and mailing addresses of Individuals who are or have received services in the first quarter (April to June) will be provided to the foundation at the end of the following quarter (September).

4.2 **Disclosure to a Foundation Affiliated with a Personal Care Home**

4.2.1 Names and mailing addresses of Individuals with the exception of those listed in 3.4, who have been admitted to a personal care home, will be provided to foundations on a quarterly basis. For example, names and mailing addresses of residents of a personal care home in the first quarter (April to June) will be provided to the foundation at the end of the following quarter (September).

4.3 The processes to Disclose the information to a foundation may be customized by each facility.

4.4 The Site Privacy Officer who has been advised of an Individual's objection will ensure the information is withheld from the foundation.

5.0 **REFERENCES:**

5.1 *The Personal Health Information Act (Manitoba).*

5.2 *Personal Health Information Regulation.*

Policy Contact: Landis Esposito, Chief Privacy Officer