

 Winnipeg Regional Health Authority Office régional de la santé de Winnipeg Caring for Health À l'écoute de notre santé	REGIONAL 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.		Level: 1
	Policy Name: Privacy of Personal Information under <i>The Freedom of Information and Protection of Privacy Act</i>	Policy Number: 10.40.170	Page 1 of 4
	Approval Signature: <i>Original signed by M. Nader.</i>	Section: GENERAL ADMINISTRATION	
	Date: January 1, 2022	Supercedes: May 6, 2019	

Language used within this Policy, particularly discretionary language, is reflective of the terms used in *The Freedom of Information and Protection of Privacy Act (Manitoba)*.

1.0 **PURPOSE:**

- 1.1 To ensure that the Individual's right to confidentiality of their Personal Information is protected as set out under *The Freedom of Information and Protection of Privacy Act*.
- 1.2 To control the manner in which the Public Body may collect Personal Information from Individuals.
- 1.3 To protect Individuals against unauthorized Access, Use, Disclosure and destruction of Personal Information by the Public Body.

2.0 **DEFINITIONS:**

- 2.1 Disclosure or Disclosed: means revealing Personal Information outside the Public Body.
- 2.2 Employees and Persons Associated With the Public Body: means all contracted persons, volunteers, students, researchers, medical staff, educators, members of the Board of Directors, Information Managers, employees, or agents of any of the above or other health agencies.
- 2.3 FIPPA: means *The Freedom of Information and Protection of Privacy Act (Manitoba)*.
- 2.4 FIPPA Access and Privacy Coordinator: means any employee of a Public Body to whom the head has delegated a duty or power under Section 81 of *FIPPA*. The delegate is responsible for receiving applications for access to Records and for the day-to-day administration of the Act. At the WRHA, the FIPPA Access and Privacy Coordinator is the Chief Privacy Officer.
- 2.5 Individual: The natural person (human being) the information is about. For the purpose of collection, Use and Disclosure of Personal Information includes Persons Authorized to Exercise the Rights of Another Person.

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2.6 Information Manager: means a person or body that:

- processes, stores or destroys personal information for a public body; or
- provides information management or information technology services to a public body.

2.7 Personal Information: means Recorded information about an identifiable Individual, including:

- the Individual's name;
- the Individual's address, telephone or facsimile number or e-mail address;
- information about the Individual's age, sex, sexual orientation, marital or family status;
- information about the Individual's ancestry, race, colour, nationality, or national or ethnic origin;
- information about the Individual's religion or creed, or religious belief, association or activity;
- personal health information about the Individual;
- the Individual's blood type, fingerprints or other hereditary characteristics;
- information about the Individual's political belief, association or activity;
- information about the Individual's education, employment or occupation, or educational, employment or occupational history;
- information about the Individual's source of income or financial circumstances, activities or history;
- information about the Individual's criminal history, including regulatory offences;
- the Individual's own personal views or opinions, except if they are about another person;
- the views or opinions expressed about the Individual by another person; and
- an identifying number, symbol or other particular assigned to the Individual.

28 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.

2.9 Persons Authorized to Exercise the Rights of Another Person includes:

- any person with written authorization from the Individual to act on the Individual's behalf;
- a committee appointed for the Individual under *The Mental Health Act* or a substitute decision maker appointed for the Individual under *The Vulnerable Persons Living with a Mental Disability Act*, if the exercise of the right or power relates to the powers and duties of the committee or substitute decision maker;
- by an attorney acting under a power of attorney granted by the Individual, if the exercise of the right or power relates to the powers and duties conferred by the power of attorney;

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- the parent or guardian of a minor when, in the opinion of the head of the Public Body concerned, the exercise of the right or power by the parent or guardian would not constitute an unreasonable invasion of the minor's privacy; or
- if the Individual is deceased, his or her Personal Representative if the exercise of the right or power relates to the administration of the Individual's estate.

2.10 **Public Body:** means

- (a) a department;
- (b) a government agency;
- (c) the Executive Council Office;
- (d) the office of a minister; or
- (e) a local public body, consisting of:
 - an educational body (a school division or school district established under *The Public Schools Act*, The University of Manitoba, The University of Winnipeg, Brandon University, University College of the North, Université de Saint-Boniface, St. Paul's College, St. John's College, a college as defined in section 1 of *The Advanced Education Administration Act*, and any other body designated as an educational body in the FIPPA Regulations;
 - a health care body; and
 - a local government body.

Within the WRHA, this means any community health services and all Winnipeg hospitals.

2.11 **Record:** means 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.

2.12 **Use:** means any activity involving Personal Information within the Public Body. Use includes accessing, looking at and sharing the information collected by the Public Body. Use also includes, but is not limited to, processing, reproduction, transmission and transportation of Personal Information.

3.0 **POLICY:**

3.1 The Public Body shall ensure that Personal Information collected by or for the Public Body:

- is authorized by or under an enactment of Manitoba or Canada;
- relates directly to and is necessary for an existing service, program or activity of the Public Body; or
- is collected for law enforcement purposes or crime prevention.

3.2 The Public Body shall collect only as much Personal Information from Individuals as is reasonably necessary to accomplish the purpose for which it is collected.

3.3 Personal Information shall be collected by or for a Public Body directly from the Individual the information it is about unless:

- the Individual consents to collection from another source;
- collection is authorized by another statute or regulation of Manitoba or

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- Canada; or
- it is authorized under *FIPPA*.

- 3.4 All Employees and Persons Associated with the Public Trustee are responsible for protecting all Personal Information (oral or Recorded in any form) that is obtained, handled, learned, heard or viewed in the course of his or her work or association with the Public Body.
- 3.5 Personal Information shall be protected during its collection, Use, storage and destruction within the Public Body.
- 3.6 All Information Managers shall execute an agreement that provides, amongst other things, for protection of Personal Information.
- 3.7 All contractors engaged in providing a service for the Public Body, where the service provided would expose them to Personal Information, shall be required to sign a contract that provides, amongst other things, for the protection of Personal Information.
- 3.8 Unauthorized Use or Disclosure of Personal Information may result in a disciplinary response up to and including termination of employment, contract, association, or appointment. Any person who he or :
 - discloses personal information in contravention of Part 3 of the Act;
 - makes a false statement to, or misleads or attempts to mislead, the Ombudsman or another person in performing duties or exercising powers under the Act;
 - obstructs the Ombudsman or another person in performing duties or exercising powers under the Act;
 - destroys a Record or erases information in a Record that is subject to the Act with the intent to evade a request for access to Records; or
 - fails to comply with subsection 44.1(4) obligations of an Information Manager

4.0 **PROCEDURE:**

- 4.1 The FIPPA Access and Privacy Coordinator shall be consulted to determine whether requests to collect, Use or Disclose Personal Information are in compliance with *FIPPA* on a case-by-case basis.
- 4.2 Individuals shall be notified about the purpose of, and legal authority for, collecting Personal Information and shall be provided with information about a contact person within the Public Body to answer their questions.
- 4.3 Reasonable steps shall be taken to ensure the accuracy and completeness of the Personal Information if it is Used to make a decision that directly affects the Individual the information is about.
- 4.4 The Public Body shall ensure that appropriate security measures are in place to prevent unauthorized access, Use, Disclosure or destruction of Personal Information.
- 4.5 If information requested is in an electronic form in the custody or under the control of a Public Body, the head of the Public Body shall produce a Record for the applicant who

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makes a request for access to a Record if

- it can be produced using the normal computer hardware and software and technical expertise of the Public Body; and
- producing it would not interfere unreasonably with the operations of the Public Body.

- 4.6 Disclosure of Personal Information shall be authorized under FIPPA, and be limited to the amount necessary to accomplish the purpose for which it is Disclosed.
- 4.7 The Public Body shall enter into a written agreement with Information Managers to ensure that Personal Information is protected against unauthorized access, Use, Disclosure or destruction.
- 4.8 Retention and destruction of Personal Information will be in accordance with the Public Body's existing procedures, Retention of Office Records Policy #10.00.120 <http://home.wrha.mb.ca/corp/policy/files/10.00.120.pdf>
- 4.9 All persons who become aware of a possible Breach of Security of Personal Information shall refer to and follow the process therein to the WRHA Reporting and Investigating Privacy Breaches and Complaints Policy #10.40.110.

5.0 **REFERENCES:**

5.1 *The Freedom of Information and Protection of Privacy Act*

5.2 *The Freedom of Information and Protection of Privacy Act Regulation*

5.3 Retention of Office Records Policy #10.00.120

5.4 Reporting and Investigating Privacy Breaches and Complaints Policy #10.40.110

Policy Contact: *Christina Von Schindler, Chief Privacy Officer and FIPPA Access and Privacy Coordinator.*