

 <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>	<p>REGIONAL</p> <p>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.</p>		<p>Level:</p> <p style="text-align: center;">1</p>
	<p>Policy Name:</p> <p style="text-align: center;">Access to Information under <i>The Freedom of Information and Protection Of Privacy Act</i></p>	<p>Policy Number:</p> <p style="text-align: center;">10.40.190</p>	<p>Page</p> <p style="text-align: center;">1 of 4</p>
	<p>Approval Signature:</p> <p style="text-align: center;"><i>Original signed by A. Wilgosh</i></p>	<p>Section:</p> <p style="text-align: center;">GENERAL ADMINISTRATION</p>	
	<p>Date:</p> <p style="text-align: center;">April 2010</p>	<p>Supersedes:</p> <p style="text-align: center;">April 4, 2000</p>	

1.0 **PURPOSE:**

- 1.1 To allow any person a right of access to Records maintained by the Public Body, subject to the limited and specific exceptions set out in "*The Freedom of Information and Protection of Privacy Act*" ("FIPPA").
- 1.2 To allow Individuals a right of access to records containing Personal Information about themselves maintained by the Public Body, subject to the limited and specific exceptions set out in FIPPA.
- 1.3 To establish a consistent and controlled process for Individuals to obtain access to information maintained by the Public Body and for the Public Body to permit or refuse such access in accordance with the legislation.
- 1.4 To ensure that requests for access to information are responded to within the legislated timeframes.
- 1.5 To protect the property right to records maintained by the Public Body regardless of media (electronic, paper or digital image).
- 1.6 This policy is not applicable to requests for access to a clinical record under *The Mental Health Act* or personal health information under *The Personal Health Information Act*.

2.0 **DEFINITIONS:**

- 2.1 **Applicant:** A person who makes a request for access to a Record. For the purpose of access to and correction of Personal Information; Applicant includes Persons Authorized to Exercise the Rights of Another Person.
- 2.2 **FIPPA Access and Privacy Coordinator:** Is the individual at the Public Body who is responsible for receiving FIPPA Applications for Access to Information, requests for corrections to Personal Information and for the day-to-day administration of FIPPA. At the WRHA, the FIPPA Access and Privacy Coordinator is the Chief Privacy Officer.
- 2.3 **FIPPA Access and Privacy Officer:** Is responsible for overall direction of access to information and protection of privacy functions. At the WRHA, the FIPPA Access and Privacy Officer is the Chief Executive Officer.

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- 2.4 FIPPA Head: The person or group of persons designated under FIPPA as the Head of a Public Body. The Head is responsible for all decisions and actions of the Public Body under FIPPA. The Head may delegate duties of power of the Head. At the WRHA the FIPPA Head is the Board Chair.
- 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.
- 2.6 Maintain: In relation to Personal Information, to have custody or control of the information.
- 2.7 Personal Information: Recorded information about an identifiable Individual including:
- (a) the Individual's name;
 - (b) the Individual's home address, or home telephone, facsimile or e-mail number;
 - (c) information about the Individual's age, sex, sexual orientation, marital or family status;
 - (d) information about the Individual's ancestry, race, colour, nationality, or national or ethnic origin;
 - (e) information about the Individual's religion or creed, or religious belief, association or activity;
 - (f) personal health information about the Individual;
 - (g) the Individual's blood type, fingerprints or other hereditary characteristics;
 - (h) information about the Individual's political beliefs, association or activity;
 - (i) information about the Individual's education, employment or occupation, or educational, employment or occupational history;
 - (j) information about the Individual's source of income or financial circumstances, activities or history;
 - (k) information about the Individual's criminal history, including regulatory offenses;
 - (l) the Individual's own personal views or opinions, except if they are about another person;
 - (m) the views or opinions expressed about the Individual by another person; and
 - (n) an identifying number, symbol or other particular assigned to the Individual.
- 2.8 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 Associated With the Public Body: All contracted persons, volunteers, students, researchers, WRHA medical staff, educators, members of the Board of Directors, Information Managers, employees, or agents of any of the above.
- 2.10 Persons Authorized to Exercise the Rights of Another Person includes:
- (a) any person with written authorization from the Individual to act on the Individual's behalf;
 - (b) a committee appointed for the Individual under *The Mental Health Act* or a substitute decision maker appointed for the Individual under *The Vulnerable*

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- 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;
- (c) 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;
 - (d) 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
 - (e) 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.

2.11 **Public Body:** means a local Public Body such as an educational body, a health care body, and a local government body. Within the WRHA means any Community Health Services and all Winnipeg hospitals.

2.12 **Record:** 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.

2.13 **Staff:** All persons employed by the WRHA facilities, or WRHA funded facilities, as well as members of the medical staff, volunteers, board members, students and others associated through contracts.

3.0 **POLICY:**

3.1 An Applicant requesting access to a Record shall complete a WRHA FIPPA Application for Access Form.

3.2 An Applicant may make an oral request for access to a Record if he or she has a limited ability to read or write English or French, or has a disability or condition that prevents them from making a written request.

3.3 FIPPA Application for Access Forms must be submitted to the FIPPA Access and Privacy Coordinator. Any Person Associated With the Public Body who receives a FIPPA Application For Access Form shall immediately record the date on the form and forward it to the FIPPA Access and Privacy Coordinator.

3.4 The right of access is subject to the Applicant paying any fees as required in accordance with the regulations under FIPPA.

3.5 The application for access to a Record must provide enough detail to enable the FIPPA Access and Privacy Coordinator to identify the Record.

3.6 The Public Body shall make every reasonable effort to assist an Applicant and to respond without delay, openly, accurately and completely.

3.7 The Public Body shall respond to an Applicant within 30 days after receiving the application, unless the time limit for responding is extended or the application has been transferred to another Public Body.

3.8 The FIPPA Access and Privacy Officer shall inform the Applicant as to whether access to the Record is granted in full or in part or refused; if access is granted, where, when

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and how access will be given.

- 3.9 Application forms shall be available from the FIPPA Access and Privacy Coordinator, on the WRHA Website and the Government of Manitoba Information and Privacy Policy Secretariat Website.
- 3.10 Any Staff or Person Associated With the Public Body who **willfully** makes false statements or attempts to mislead or obstructs a person's exercising powers under FIPPA, or destroys or erases information in a Record, is subject to disciplinary action.
- 3.11 All responses shall be in the language of the originating request.
- 3.12 This policy is not relevant for access to a clinical record under *The Mental Health Act* or personal health information under *The Personal Health Information Act*.

4.0 **PROCEDURE:**

- 4.1 The FIPPA Access and Privacy Coordinator shall:
 - 4.1.1 Review the request to determine if the information is maintained by the Public Body, whether the application is understandable and complete and, if necessary, contact the Applicant to seek clarification.
 - 4.1.2 Transfer the Application to another Public Body or government agency within 7 days, if the Public Body does not have custody or control of the requested Record.
 - 4.1.3 Determine whether the response can be completed within 30 days and if not, notify the Applicant that the time will be extended.
 - 4.1.4 Determine whether a fee will be charged and notify the Applicant of the estimated cost.
 - 4.1.5 Review the information retrieved to fulfill the request to determine whether an exception to disclosure applies and where necessary sever the information that the Applicant is not entitled to access.
- 4.2 The FIPPA Access and Privacy Officer shall:
 - 4.2.1 Advise the Applicant whether access to the requested information is granted in full or in part or refused.
 - 4.2.2 Advise the Applicant of their right to make a Complaint to the Provincial Ombudsman when access is partially granted or refused.

5.0 **REFERENCE:**

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

Policy Contact: *Landis Esposito, Chief Privacy Officer and FIPPA Access and Privacy Coordinator.*