



ADMINISTRATION

Policy & Procedure

Title	REPORTING AND DISCLOSURE OF PERSONAL HEALTH INFORMATION TO CHILD AND FAMILY SERVICES	Date Effective	February 18, 2013
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Scope	ALL EMPLOYEES, SITES AND FACILITIES	Date Revised	January 24, 2020
Approved By	SENIOR MANAGEMENT TEAM	Signature	<i>Original signed by H. Bryant</i>
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TABLE OF CONTENTS

PURPOSE	1
DEFINITIONS	1
POLICY STATEMENT(S)	3
PROCEDURE / RESPONSIBILITIES	4
RELATED DOCUMENTS	7
REFERENCES	7
REVISION & REVIEW DATE(S)	8

1.0 PURPOSE

- 1.1 The Northern Health Region (NHR) is a trustee of clients' personal health information and must comply with *The Personal Health Information Act* (PHIA) (Manitoba) and *The Child and Family Services Act* (Manitoba) when disclosing personal health information to Child and Family Services (CFS).
- 1.2 This policy provides guidelines to employees responding to requests from CFS for personal health information maintained by the NHR.

2.0 DEFINITIONS

- 2.1 **Abuse:** an act or omission by any person where the act or omission results in:
 - physical injury to the child;
 - emotional disability of a permanent nature in the child or is likely to result in such a disability; or
 - sexual exploitation of the child with or without the child's consent.
- 2.2 **Agency:** a child and family services agency that is mandated for the purpose of providing child and family services under [The Child and Family Services Authorities Act](#) and/or [The Child and Family Services Act](#). [The Child and Family Services Authorities Act](#) defines four (4) Authorities within Manitoba as follows:
 - Northern Authority: responsible for the delivery of services to member of northern First Nations.
 - Southern Authority: responsible for the delivery of services to member of southern First Nations.

- Métis Authority: responsible for the delivery of services to Métis people.
 - General Authority: responsible for the delivery of services to all people other than those receiving services from the northern, southern and Métis authorities
- 2.3 **Alternate:** a person who has decision-making capacity and is willing to make decisions on behalf of a client who does not have the capacity to make a decision. An alternate may be legally authorized (e.g. health care proxy or committee) or may be a person designated (e.g. family member) in the absence of a legally authorized individual.
- 2.4 **Apprehend:** where a child, who is believed to be in need of protection, is removed without a warrant from a premises and is taken to a place of safety.
- 2.6 **Child:** a person under the age of 18 years.
- 2.7 **Child and Family Services Worker:** all workers mandated by Child and Family Services to provide protective services and conduct child protection investigations and ongoing assessments under [The Child and Family Services Act](#).
- 2.8 **Child in Need of Protection:** a child whose life, health or emotional well-being is endangered by the act or omission of any person.

Illustrations of child in need:

A child in need of protection where the child:

- is without adequate care, supervision or control;
- is in the care, custody, control or charge of a person;
 - is unable or unwilling to provide adequate care, supervision or control of the child;
 - whose conduct endangers or might endanger the life, health or emotional well-being of the child; or
 - who neglects or refuses to provide or obtain proper medical or other remedial care or treatment necessary for the health or well-being of the child or who refuses to permit such care or treatment to be provided to the child when the care or treatment is recommended by a duly qualified medical practitioner;
- is abused or is in danger of being abused, including where the child is likely to suffer harm or injury due to child pornography;
- is beyond the control of a person who has the care, custody, control or charge of the child;
- is likely to suffer harm or injury due to the behaviour, condition, domestic environment or associations of the child or of a person having care, custody, control or charge of the child;
- subjected to aggression or sexual harassment that endangers the life, health or emotional well-being of the child;
- being under the age of 12 years, is left unattended and without reasonable provision being made for the supervision and safety of the child; or
- is the subject, or is about to become the subject, of an unlawful adoption under [The Adoption Act](#) or of a sale under Section 84.

- 2.9 **Child Protection Investigation:** an investigation by CFS further to a report concerning the safety of a child. The investigation may involve: a safety assessment which is conducted to determine if the child is in danger at present, or a risk assessment to determine the likelihood of the child being in danger. A child protection investigation may be ongoing for a period up to 18 months. During this period the child could be in the home or in the care of CFS.
- 2.10 **Child Protection Services:** protection services (i.e. monitoring) is based on the risk assessment completed as part of the child protection investigation where a child is not removed from a premises or where there is a need to monitor a child that has been returned to the premises. Child protection services may be ongoing for a period of six to twelve (6 to 12) months after the investigation is complete.
- 2.11 **Order of Supervision:** this Order gives the agency the right to provide guidance and counselling and to ensure the child is receiving proper care. Parents retain all rights a parent normally enjoys and complete decision making authority over the child, unless limited in the Court Order.
- 2.12 **Permanent Order of Guardianship:** an Order issued by a judge where the agency becomes the child's permanent guardian, taking the place of the parents. The agency makes all decisions about the child's care and may place the child for adoption. The parents' rights and responsibilities with respect to the child are ended.
- 2.13 **Temporary Order of Guardianship:** an Order where the agency becomes the child's guardian and will be responsible for the child for a specific period of time. A Temporary Order of Guardianship may be up to 24 months in duration depending on the age of the child.
- 2.14 **Voluntary Placement Agreement:** an agreement between an agency and a parent where the parent voluntarily places the child under the care of the agency, and for a period not to exceed twelve (12) months, voluntarily transfers care and control of the child to the agency but without a transfer of guardianship.

3.0 POLICY STATEMENT(S)

- 3.1 NHR employees are legally obligated to protect children by reporting suspected child abuse. The following are offences under [The Child and Family Services Act](#):
- failure to report information about a child in need of protection;
 - disclosure of the identity of the informant; and
 - interfering or harassing an informant.
- 3.2 Health Care Professionals governed by a professional regulatory body and who are found to have failed to report a child in need of protection may be subject to legal and professional penalties.
- 3.3 A CFS worker may make a request for personal health information for one of the following purposes:
- conducting a child protection investigation;
 - providing protective services where an investigation has been concluded;
 - Fulfilling the responsibilities as temporary or permanent guardian;

Reporting and Disclosure of Personal Health Information to Child and Family Services	Date Revised January 24, 2020	Document No. AD-07-105	Page 4 of 8
--	----------------------------------	---------------------------	-------------

- Caring for a child under apprehension;
- Notifying an individual of a hearing; and
- Other purposes as may be required by [The Child and Family Services Act](#).

3.4 Disclosure of personal health information to an agency is in accordance with [The Personal Health Information Act](#) and [The Child and Family Services Act](#) of Manitoba.

3.5 Site Privacy Officer or designate may be contacted to assist with requests for personal health information received from CFS.

3.6 All requests for disclosure of information are forwarded to the site or program that maintains the personal health information. Prior to any disclosure of personal health information, the identity of the CFS worker and the agency is confirmed. Disclosure of personal health information is limited to the minimum amount of information necessary.

4.0 PROCEDURE / RESPONSIBILITIES

4.1 Reporting of a Child in need of protection

- Employees, who have information that leads them to believe or suspect that a child is in need of protection, have a duty to immediately report their belief to an agency or to the child's parent or guardian where it is necessary for the child's immediate safety.
- Employees report directly to an agency where:
 - the identity of the parent or guardian is unknown;
 - where they believe the parent or guardian is responsible for the child to be in need of protection; or
 - where they believe the parent or guardian is unable or unwilling to provide adequate protection to the child.
- Where the immediate protection of the child is required and an agency cannot be reached, the province wide 24 hour Child Protection-Designated Intake Agency (DIA) is contacted or the police, if required.
- Personal health information about the child, a family member, or another person associated with the child may be disclosed to an agency without the consent of the individual the information is about, where the information is relevant to a child in need of protection.
- The identity of the individual making the report is confidential. The individual's identity is not to be disclosed to the family or to the person who is believed to have caused the child to be in need of protection without the written consent of the individual making the report, or where required in the course of a judicial proceeding.
- Employees may choose to consult with colleagues and/or supervisor to discuss the situation prior to making a report.
- Clear, concise, and objective details of events, history and observations are documented in the child's health record.
- A notation indicating what information is disclosed to an agency is made in the health record of the individual whose personal health information has been disclosed. Employees who are concerned for their safety following a report;
 - discuss with an appropriate manager, coordinator, or director; or
 - where there is imminent or immediate threat, call security and/or the police.

Reporting and Disclosure of Personal Health Information to Child and Family Services	Date Revised January 24, 2020	Document No. AD-07-105	Page 5 of 8
--	----------------------------------	---------------------------	-------------

4.2 Child Protection Investigations and Child Protection Services

- 4.2.1 In emergent situations where a CFS worker has contacted the NHR by phone and requires personal health information immediately for the health and safety of a child and the CFS worker is not present and is unable to produce the [Manitoba Child and Family Services Personal Health Information Request Form](#) the procedure for disclosure of the personal health information will be as follows:
- a. immediately contact the applicable [Child Protection- Designated Intake Agency](#) to verify the identity of the caller and that there is an urgent need to protect the child;
 - b. provide the personal health information once the identity of the CFS worker has been verified; and
 - c. request that the CFS worker submit the [Manitoba Child and Family Services Personal Health Information Request Form](#) as soon as reasonably possible.
- 4.2.2 In non-urgent situations where personal health information about a child or another individual is required as part of a child protection investigation or service, the CFS worker will provide a signed and completed [Manitoba Child and Family Services Personal Health Information Request Form](#) or each individual whose personal health information they require.
- 4.2.3 Personal health information about family of a child or other person associated with the child may be disclosed without consent where the information is required for a child protection investigation or service and involves the safety of the child. The CFS worker completes [the Manitoba Child and Family Services Personal Health Information Request Form](#) to identify what information is required.
- 4.2.4 Upon receipt of the [Manitoba Child and Family Services Personal Health Information Request Form](#), the health care provider, Site Privacy Officer or designate verifies that the form is completed accurately as outlined in the [AD-07-105 Appendix A Guideline for Verification of a Completed Personal Health Information Request Form](#).
- 4.2.5 Once the [Manitoba Child and Family Services Personal Health Information Request Form](#) has been verified as complete and the health care provider, Site Privacy Officer, or designate is satisfied that an investigation related to the protection of a child is occurring or the child is receiving protection services, the personal health information that is relevant to the request is disclosed. Where the personal health information is being released without the consent of the individual to whom it relates, other than the child, only that information sought in the request form is disclosed.
- 4.2.6 Section 7 (Disclosing Trustee's Information) of the [Manitoba Child and Family Services Personal Health Information Request Form](#) is completed by the health care provider, Site Privacy Officer, or designate.
- 4.2.7 A record of what information was disclosed to the CFS worker and the [Manitoba Child and Family Services Personal Health Information Request Form](#) is maintained in the client's health record.

Reporting and Disclosure of Personal Health Information to Child and Family Services	Date Revised January 24, 2020	Document No. AD-07-105	Page 6 of 8
--	----------------------------------	---------------------------	-------------

4.3 Child in the Care of Child and Family Services

- 4.3.1 The CFS worker must provide a completed [Manitoba Child and Family Services Request for Personal Health Information Request Form](#) for the child whose personal health information they require, indicating the current guardianship status as either a Temporary or Permanent Order of Guardianship.
- 4.3.2 Upon receipt of the [Manitoba Child and Family Services Request for Personal Health Information Request Form](#), the health care provider or Site Privacy Officer or designate verifies that the form is completed as outlined in [AD-07-105 Appendix A Guideline for Verification of a Completed Personal Health Information Request Form](#).
- 4.3.3 Once the [Manitoba Child and Family Services Request for Personal Health Information Form](#) has been verified as complete, the child's personal health information that is relevant to the request is disclosed to the CFS worker.
- 4.3.4 Section 7 (Disclosing Trustee's Information) of the [Manitoba and Family Services Personal Health Information Request Form](#) is completed by the health care provider, Site Privacy Officer, or designate.
- 4.3.5 A record of what information was disclosed to the CFS worker and the [Manitoba and Child Services Personal Health Information Request Form](#) are maintained in the child's health record.
- 4.3.6 Where a Temporary Order of Guardianship has been issued or a Voluntary Placement Agreement exists, the parent or guardian retains the rights to access personal health information about their child, unless the order or agreement specifies otherwise.
- 4.3.7 Personal health information relevant to current care being provided to a child may be shared with the foster parent(s). However, foster parents are not the legal guardian of an apprehended child and, therefore, do not have the authority to consent to the disclosure of personal health information about a foster child. The Executive Director of the agency is contacted to obtain consent.

4.4 Child under an Order of Supervision

- 4.4.1 Where an Order of Supervision has been issued, [Consent to Disclose Personal Health Information Form #: R_Priv_001](#) or a written consent to disclose personal health information is obtained from the parent or guardian unless the Order of Supervision specifically authorizes the agency access to the child's personal health information.
- 4.4.2 In the absence of an Order of Supervision, and where an agency may be monitoring a child, [Consent to Disclose Personal Health Information Form #: R_Priv_001](#) or a written consent is required from the parent or guardian prior to disclosure of the child's personal health information.

- 4.5 Child/family participating voluntarily in Child and Family Services programs
 - 4.5.1 Where a child and/or their family participate voluntarily in the programs or services provided by an agency and the CFS worker requests personal health information, [Consent to Disclose Personal Health Information Form #: R_Priv_001](#) or a written consent to disclose personal health information is required from the parent or guardian of a child or from the individual the information is about.
 - 4.5.2 Where NHR health care providers partner with CFS to develop a program for a child and/or family, [Consent to Disclose Personal Health Information Form #: R_Priv_001](#) or a written consent to disclose personal health information is obtained for the participation in and sharing of information as part of the program.
- 4.6 Provincial Birth Alert
 - 4.6.1 Where a provincial birth alert has been issued, health care providers contact an agency immediately upon the birth of the baby.
 - 4.6.2 Personal health information is not shared with an agency prior to the birth of the baby, without the consent of the mother or the alternate.
- 4.7 Mandatory Reporting of Pregnancy/Birth
 - 4.7.1 The health care provider notifies an agency where a child, who is unmarried **and** who is received for care into a hospital or other maternity institution during pregnancy or labour and delivery completes the [Notice of Maternity Form #: CFS-3](#) and forwards it to the appropriate Director of the agency.
 - 4.7.2 A health care provider may make an early referral for a pregnant child to an agency with the consent of the child or alternate.

5.0 RELATED DOCUMENTS

- 5.1 [Appendix A Guideline for Verification of a Completed Personal Health Information Request Form](#)
- 5.2 [Designated Intake and Emergency After Hours Agencies \(DIAs\)](#)
- 5.3 [Manitoba Child and Family Services - Personal Health Information Request Form.](#)
- 5.4 [Notice of Maternity Form #: CFS-3](#)

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Reporting and Disclosure of Personal Health Information to Child and Family Services	Date Revised January 24, 2020	Document No. AD-07-105	Page 8 of 8
--	----------------------------------	---------------------------	-------------

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7.0 REVISION & REVIEW DATE(S)

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