



ADMINISTRATION

Policy & Procedure

Title	USE AND DISCLOSURE OF PERSONAL HEALTH INFORMATION	Date Effective	February 18, 2013
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Managed By	REGIONAL PRIVACY AND ACCESS OFFICER		

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1.0 PURPOSE

- 1.1 To ensure that the individual's right to privacy and their personal health information (PHI) including demographic information is protected during use as set out under [The Personal Health Information Act \(PHIA\)](#).
- 1.2 To detail conditions and restrictions on the trustee's ability to use PHI.
- 1.3 To ensure that the individual's right to privacy of their PHI including demographic information is protected during disclosure with or without consent as set out under PHIA.
- 1.4 To detail the conditions and restrictions on the trustee to disclose PHI with or without consent.
- 1.5 To detail the conditions and restrictions on the trustee to obtain express consent or implied consent to use or disclose PHI.
- 1.6 To ensure consent is obtained in accordance with 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 **Alternate Decision Maker (ADM):** a person who has the 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 ADM may be legally authorized (i.e. health care proxy, committee, substitute decision maker or public trustee) or may be a person designated (i.e. family member) in the absence of a legally authorized individual. Refer to [AD-07-130 Alternate Decision Maker](#) and Section 2.17
- 2.3 **Client:** an individual who accesses and/or receives healthcare related services from a Northern Health Region (NHR) facility or program. A client may be a patient in an acute care setting, a resident in a personal care home (PCH), or client in a community program or facility.
- 2.4 **Consent:** means express or implied consent by an Individual for the Use and Disclosure of Personal Health Information. Consent must:
- be related to the purpose for which the information is used or disclosed;
 - be knowledgeable;
 - be voluntary; and
 - not be obtained through misrepresentation.
- 2.5 **Demographic Information:** an individual's name, address, telephone number, and email address.
- 2.6 **Disclosure:** revealing the personal health information outside the trustee, i.e. to other trustees, to family and friends of the individual, insurance companies or other similar businesses or to other persons legally entitled to have personal health information released to them. As an employee or agent of a trustee, when authorized to disclose, you are only permitted to disclose the minimum amount of information as required by the Act.
- 2.7 **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.
- 2.8 **Healthcare Professional:** an individual who is a member of a regulated health discipline and who participates within their scope and role may include physicians, physician assistants, Residents, midwives, nurses, nurse practitioners, pharmacists and pharmacy technicians.
- 2.9 **Healthcare Provider:** any person who provides care or services to an individual, includes healthcare professionals, employees, students, volunteers and other persons acting or in conjunction with the NHR.
- 2.10 **Health Services Agency:** an organization that provides health care such as community or home-based health care pursuant to an agreement with the trustee.

- 2.11 **Individual:** a patient, client or resident receiving health care services within a trustee. For the purpose of access, correction, use and disclosure of personal health information includes persons permitted to exercise the rights of an individual.
- 2.12 **Information about Care Currently Being Provided:**
- **Hospital Inpatient**
 - Personal health information collected, documented and maintained in the hospital inpatient chart during the current hospital stay for an individual who has been admitted and not yet discharged from hospital.
 - **Personal Care Home Residents**
 - Personal health information about a Resident in a personal care home includes the most current information such as applicable quarterly reports and any other information on the health record that would describe or explain an incident, injury or a new health issue.
 - **Health Care Facility Visits such as Emergency, Outpatient and Day Surgery**
 - Personal health information collected, documented and maintained in a facility's health record that is readily available during a visit to one of the above settings. This may also include information about the last visit to that setting.
 - **Community Health Services such as Family Medicine/Primary Care, Midwifery, Home Care, Public Health and Mental Health**
 - Personal health information collected, documented and maintained in a health record that is readily available during a visit pertaining to one of the above settings. This may also include information about the last visit in that setting.
- 2.13 **Information Manager:** a person or body (corporation, business or association) that processes, stores or destroys personal and/or personal health information or provides information management or information technology services for the Trustee.
- 2.14 **Maintain:** in relation to personal health information, to have custody or control of the information.
- 2.15 **Medical Director:** psychiatrist responsible for the provision and direction of psychiatric services for a designated Psychiatric Facility. The Medical Director may delegate any of the Medical Director's powers, duties or functions under *The Mental Health Act*.
- 2.16 **Personal Health Information (PHI):** 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 [AD-07-10 Confidentiality](#):
- any personal health information exchanged verbally about an identifiable individual.

2.17 Personal Representative:

- An Executor or Executrix named in a deceased individual's will;
- a court appointed Administrator/Administratrix of an individual's estate; or

2.18 Persons Permitted to Exercise the Rights of an Individual:

- Any person with written authorization from the individual to act on the individual's behalf;
- a proxy appointed by the individual under The Health Care Directives Act;
- 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;
- 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;
- 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;
- the parent or guardian of an individual who is a minor, if the minor does not have the capacity to make health care decisions,
- if the individual is deceased, his or her personal representative.

If it is reasonable to believe that no person listed above exists or is available, the adult person listed first below who is readily available and willing to act may exercise the rights of an Individual who lacks the capacity to do so:

- the individual's spouse, or common-law partner, with whom the individual is cohabiting;
- a son or daughter;
- a parent, if the individual is an adult;
- a brother or sister;
- a person with whom the individual is known to have a close personal relationship;
- a grandparent;
- a grandchild;
- an aunt or uncle; or
- a nephew or niece.

2.19 Ranking: the older or oldest of two or more relatives described in any clause in this section is to be preferred to another of those relatives

2.20 PHIN: the personal health identification number assigned to an individual by the minister to uniquely identify the individual for health care purposes.

2.21 Privacy Designate: an employee within a program or facility who assists the manager, supervisor, Site Privacy Officer or Regional Privacy & Access Officer

2.22 Privacy Officer: an employee, designated by the NHR, whose responsibilities include dealing with requests from individuals who wish to examine and copy or to correct personal health information collected and maintained by the NHR, and facilitating the NHR's compliance with PHIA. The definition is intended to mean the Site Privacy Officer or privacy designate.

2.23 **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.

In the NHR the designated Psychiatric Facility or unit are Thompson General Hospital and St. Anthony's General Hospital.

2.24 **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.

2.25 **Record of Disclosure:** a prescribed form or documentation that identifies what personal health information was disclosed, how it was disclosed and to whom.

2.26 **Site:** a health care facility, community health center, or community office within the NHR.

2.27 **Trustee:** a health professional, health care facility, public body or health services agency that collects or maintains personal health information. For clarity, Northern Health Region (NHR) as a public body is the trustee of the personal health information that is collected and maintained within health care facilities and sites owned and/or operated by Northern Health Region and include 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.

2.28 **Use:** involves revealing personal health information to someone within the Trustee's organization who needs to know the information to do their job. Use includes processing, reproduction, transmission and transportation of personal health information. As an employee or agent of a Trustee, you should only be using the minimum amount of information to do your job.

3.0 POLICY STATEMENT(S)

3.1 Use of Personal Health Information

3.1.1 A trustee authorized to use PHI must limit use to the minimum amount of information necessary to accomplish the purpose for which it is used.

3.1.2 A trustee limits the use of PHI to those persons associated with the trustee who need to know the information to carry out the purpose for which the information was collected or received.

3.1.3 Employees and persons associated with the NHR cannot access their own PHI, or the health information of family or friends, except in accordance with the trustee's established policies and procedures, unless specifically required as part of their job responsibilities and duties. Using employee access for personal reasons is a breach of this policy.

3.1.4 Before using PHI, reasonable steps must be taken to ensure the information is accurate, up to date, complete, and not misleading.

3.1.5 PHI may only be used for the purpose for which it was collected or received, and is not used for any other purpose unless

- the other purpose is directly related to the purpose for which the information was collected or received;
- the individual the PHI is about has consented to the use;

- use of the information is necessary to prevent or lessen:
 - a risk of harm to the health or safety of a minor, or
 - a risk of serious harm to the health or safety of the individual the information is about or another individual, or
 - to public health or public safety
 - the information is demographic information about an individual, or their personal health identification number (PHIN), and is used to:
 - confirm eligibility for health care or payment for health care;
 - verify the accuracy of the demographic information or PHIN;
 - the information is demographic information about an individual and is used to collect a debt the individual owes to the trustee;
 - to deliver, monitor or evaluate a program that relates to the provision of health care or payment for health care by the trustee;
 - for research and/or planning that relates to the provision of health care or payment for health care by the trustee;
 - if it is used for the same purpose for which it was disclosed to the trustee; or
 - if use of the information is authorized by an enactment of Manitoba or Canada.
 - The information is used for educating individuals respecting the provision of health care including:
 - employees and agents of the trustee;
 - students training to be health professionals; and
 - health professionals who have been granted privileges to provide services at a health care facility operated by the trustee.
- 3.1.6 If a trustee has collected or received personal health information about an employee or prospective employee for a purpose unrelated to their employment, the trustee must not use the information for a purpose related to their employment without first obtaining their consent.
- 3.1.7 PHI cannot be used unless the intended use is authorized under PHIA or with the consent of the individual.

3.2 Disclosure of Personal Health Information without Consent

PHI may be disclosed without consent of the individual, and **only to the extent the recipient needs to know the information**, in the following circumstances:

- 3.2.1 To a person who is, will be, or has provided health care to the individual, to the extent necessary to provide health care to the individual, unless the individual has instructed not to make the disclosure.
- 3.2.2 To any person, if the trustee reasonably believes that the disclosure is necessary to prevent or lessen:
- a risk of harm to the health or safety of a minor; or
 - a risk of serious harm to the health or safety of the individual the information is about or another individual, or to public health or public safety.
- 3.2.3 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.

- 3.2.4 To a relative of a deceased individual if the trustee reasonably believes that disclosure is not an unreasonable invasion of the deceased's privacy;
- 3.2.5 Required for
- the purpose of peer review by health professionals;
 - the purpose of review by a standards committee established to study or evaluate health care practice in a health care facility or health services agency;
 - the purpose of a body with statutory responsibility for the discipline of health professionals or for the quality or standards of professional services provided by health professionals; or
 - the purpose of risk management assessment.
- 3.2.6 In accordance with disclosure to another government, disclosure to individual's family, disclosure to religious organization, disclosure to fundraising, disclosure for health research, or disclosure to an Information Manager.
- 3.2.7 For the purpose of
- delivering, evaluating, or monitoring a program of the trustee that relates to the provision of health care or payment for health care; or
 - for research and planning that relates to the provision of health care or payment for health care by the trustee.
- 3.2.8 To another trustee who requires the information to evaluate or monitor the programs, services or benefits the other trustee provides.
- 3.2.9 For the purpose of determining or verifying the individual's eligibility for a program, service or benefit, if the information disclosed is limited to the individual's demographic information.
- 3.2.10 To another trustee for the purpose of de-identifying the personal health information.
- 3.2.11 To a computerized health information network established by
- the government of a government agency;
 - the Government of Canada or of another province or territory or an agency of such a government;
 - an organization representing one or more governments; or
 - a trustee that is a public body specified in the regulation;
- in which PHI is recorded for the purpose of:
- providing health care;
 - facilitating the evaluation or monitoring of a program that relates to the provision of health care or payment of health care; or
 - facilitating research and planning that relates to the provision of health care or payment for health care.
- 3.2.12 To the government, another public body, or the government of another jurisdiction or an agency of such a government, to the extent necessary to obtain payment for health care provided to the individual the personal health information is about.
- 3.2.13 For the purpose of collecting a debt owed by the individual to the trustee, if the information disclosed is limited to demographic information.
- 3.2.14 To a person who requires the PHI to carry out an audit for or provide legal services to a trustee, if the trustee reasonably believes that the person will not use or disclose the PHI for any other purposes and will take appropriate steps to protect it;
- 3.2.15 Required in anticipation of, or for use in, a civil or quasi-judicial proceeding to which the trustee is a party.
- 3.2.16 Required in anticipation of, or for use in, the prosecution of an offence.
- 3.2.17 Required to comply with a subpoena, warrant, or order issued or made by a court, person or body with jurisdiction to compel the production of the PHI, or with a rule of court concerning the production of the PHI.

- 3.2.18 Required by police to assist in locating an individual reported as being a missing person, if the information disclosed is limited to demographic information.
- 3.2.19 For the purpose of:
- an investigation under or enforcement of an enactment of Manitoba with respect to payment for health care; or
 - an investigation or enforcement with respect to fraud relating to payment for health care.
- 3.2.20 For the purpose of complying with an arrangement or agreement entered into under and enactment of Manitoba or Canada; or
- 3.2.21 Authorized or required by an enactment of Manitoba or Canada.
- 3.3 The trustee and/or the health professional follows the process outlined in [AD-07-140 Personal Health Information Disclosure Due to Risk of Serious Harm](#) when disclosing PHI without consent to prevent or lessen a risk of serious harm.
- 3.4 Sharing PHI with other Trustees and/or Service Providers for the purpose of providing or planning services or benefits to a supported child, the trustee and/or health professional follows the process outlined in [AD-07-145 Information Sharing Under The Protecting Children \(Information Sharing\) Act \(PCISA\)](#).
- 3.5 Before disclosing PHI, reasonable steps are taken to ensure the information is accurate, up to date, complete, and not misleading.
- 3.6 A [Record of Disclosure of Personal Health Information Form # NHR 0409](#) using a prescribed form is retained, including what PHI was disclosed and to whom.
- 3.7 **Timely Disclosure to Family**
- If an individual is receiving health care in a health care facility or in their home and an immediate family member, or someone whom the individual is known to have a close relationship, asks the trustee to disclose information about care currently being provided to the individual, the trustee must disclose the information as soon as reasonably possible, but not later than:
- 3.7.1 24 hours after receiving the request if the information is about a hospital in-patient; as defined in Section 2.10
- 3.7.2 72 hours after receiving the request, in any other case as defined in Section 2.10
- 3.7.3 Information may be disclosed if:
- the information is about health care currently being provided;
 - the disclosure is made in accordance with good medical or other professional practice;
 - the trustee reasonably believes the disclosure to be acceptable to the individual; or
 - the disclosure is not contrary to the express request of the individual.
- 3.8 A request for recorded information in a designated Psychiatric Facility or unit must be approved by the Medical Director of the Psychiatric Facility or unit. The 24 and 72 hour timeframes would not apply.
- 3.9 Disclosure of recorded information in a designated Psychiatric Facility or unit pursuant to [The Mental Health Act](#) is processed in accordance with [AD-07-110 Access to, Disclosure of and Corrections of the Clinical Record under The Mental Health Act](#).

3.10 Disclosure about an Individual's Condition

As long as disclosure is not contrary to the express request of the individual, the trustee may disclose to any person the following information about an individual who is a patient or a resident of a health care facility

- the individual's name;
- the individual's general health status, described as critical, poor, fair, stable or satisfactory, or in terms indicating similar conditions; and
- the individual's location, unless disclosure of the location would reveal specific information about the physical or mental condition of the individual.

3.11 No Disclosure if Possible Harm

The trustee cannot disclose PHI if the trustee has reason to believe that the disclosure might lead to harm to the individual the PHI is about.

3.12 Consent for Use and Disclosure of Personal Health Information

3.12.1 The trustee obtains an individual's consent, for the use or disclosure of PHI where required under PHIA.

3.12.2 When PHIA requires an individual's consent to use or disclose PHI, the consent must:

- relate to the purpose for which the information is used or disclosed;
- be knowledgeable and understood by the individual;
- be voluntary; and
- not be obtained through misrepresentation.

3.12.3 Consent may be expressed or implied and need not be in writing.

3.12.4 Consent must be expressed consent, and not implied, if the trustee:

- makes a disclosure to a person who is not a trustee; or
- makes a disclosure to another trustee, but the disclosure is not for the purpose of providing health care or assisting in providing health care; or
- requires consent under Subsection 21(2) of PHIA for employee's information

3.12.5 The trustee may act in accordance with an expressed consent, written consent or a record of an expressed consent having been given and obtained by another trustee, without verifying that the consent meets the requirements stated in Section 3.12.2, unless the trustee has reason to believe that the requirements have not been met.

3.12.6 An individual may give consent subject to conditions as long as the conditions do not restrict or prohibit the trustee from recording PHI that is required by law, or by established standards, or by professional or institutional practice.

3.12.7 An individual who has given consent, whether express or implied, to the use or disclosure of PHI may withdraw it by notifying the trustee. A withdrawal does not have a retroactive effect.

3.13 NHR may charge a fee for disclosure of PHI in accordance with [AD-07-115 Appendix B Fee Schedule For Release of Personal Health Information](#).

4.0 PROCEDURE / RESPONSIBILITIES

4.1 During normal business hours, all requests for use or disclosure of PHI must be forwarded to the Site Privacy Officer or privacy designate. Requests are prioritized and processed according to urgency. The Site Privacy Officer or privacy designate must ensure that appropriate consents are obtained prior to release of PHI.

- 4.2 After normal business hours, requests for use or disclosure of PHI must be reviewed by the Administration On-Call or designate to determine the urgency of the request. Copies of only the portions of the record that are urgently required should be provided. All information provided must be documented on the consent form.

All non-urgent/emergent requests are forwarded to the Site Privacy Officer or privacy designate for processing the next business day.

- 4.3 Where consent is necessary to use or disclose PHI, the trustee determines whether implied or express consent is required and if express consent, consent is sought from the individual.
- 4.4 When a trustee determines that the PHI can be disclosed in accordance with the implied consent model, the PHI disclosed and the reason for disclosure is documented in the individual's health record.
- 4.5 When a trustee determines that express consent is required for use or disclosure of the PHI, the trustee must obtain consent from the individual the information is about by:
- completing [Consent to Disclose Personal Health Information Form # NHR_0389](#) or [Consent to Use Personal Health Information Form # NHR_0390](#); or
 - documenting in the individual's health record that verbal consent was obtained and the reason for the use and disclosure.
- 4.6 The [Record of Disclosure of Personal Health Information Form # NHR_0409](#) may be in an electronic format, paper format or documented in the health record. The record includes how the disclosure was made (i.e. verbal, fax, courier, electronic, etc.).
- 4.7 A record of disclosure of PHI is not required for routine routing of documents.
- 4.8 The Site Privacy Officer or privacy designate and/or Regional Privacy & Access Officer may be consulted to determine whether implied or express consent should be obtained, on a case-by-case basis.
- 4.9 Review the health record to determine if it includes information recorded in a designated psychiatric facility or unit. If so, the information may be disclosed in accordance with PHIA, as it has already been disclosed to the trustee. Psychiatric records should be reviewed carefully prior to any further disclosure to ensure disclosure does not harm the individual in any way.
- 4.10 Consent for ongoing disclosure is renewed upon any change to the nature of disclosure consented to, and at minimum annually

5.0 RELATED DOCUMENTS

- 5.1 [Appendix A Guideline Secondary Use of Personal Health Information for Educational Purposes](#)
- 5.2 [Consent to Disclose Personal Health Information Form #: NHR_0389](#)
- 5.3 [Consent to Use Personal Health Information Form #: NHR_0390](#)
- 5.4 [Record of Disclosure of Personal Health Information Form # NHR_0409](#)

- 5.5 [AD-07-10 Confidentiality](#)
- 5.6 [AD-07-130 Alternate Decision Maker](#)
- 5.7 [AD-07-115 Appendix B Fee Schedule for Release of Personal Health Information](#)
- 5.8 [AD-07-140 Appendix A Personal Health Information \(PHI\) Disclosure Due to Risk of Serious Harm Algorithm](#)
- 5.9 [AD -07-145 Information Sharing Under *The Protecting \(Information Sharing\) Act* \(PCISA\)](#)

6.0 REFERENCES

- 6.1 Manitoba Government (2022). *The Protecting Children (Information Sharing) Act C.C.S.M.c.P143.5* Retrieved from <https://web2.gov.mb.ca/laws/statutes/ccsm/p143-5e.php>
- 6.2 Manitoba Government. (2022). *The Mental Health Act C.C.S.M.c.M110* Retrieved from <http://web2.gov.mb.ca/laws/statutes/ccsm/m110e.php>
- 6.3 Manitoba Government. (2022). *The Personal Health Information Act C.C.S.M.c.P33.5* Retrieved from <http://web2.gov.mb.ca/laws/statutes/ccsm/p033-5e.php>
- 6.4 Northern Health Region. (2016). [AD-07-110 Access, Correction, Disclosure – Clinical Record under *The Mental Health Act*](#).
- 6.5 Northern Health Region. (2018). [AD-07-50 Disclosure of Personal Health Information to Police](#)
- 6.6 Northern Health Region. (2019). [AD-07-140 Personal Health Information Disclosure Due to Risk of Serious Harm Policy](#).
- 6.7 Shared Health. (2022). 340.100.102. Consent to Use of Disclose Personal Health Information
- 6.8 Shared Health. (2022). 340.100.115. Disclosure of Personal Health Information Without Consent
- 6.9 Shared Health. (2022). 310.140.103. Use of Personal Health Information Without Consent
- 6.10 Winnipeg Regional Health Authority (WRHA). Guideline- Secondary Use of Personal Health Information for Educational Purposes

7.0 REVISION & REVIEW DATE(S)

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