

 Canadian Mental Health Association Cochrane-Timiskaming	Confidentiality and Privacy and Confidentiality	Document #	302
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1.0 POLICY

- 1.1 The agency and its employees will take all reasonable steps to protect the confidentiality of individuals' personal health information and the privacy of individuals with respect to that information, while facilitating the effective provision of health care
- 1.2 The agency and its employees will respect and protect the privacy of personal health information. To achieve this, the agency will comply with the ten privacy principles that under pin the Personal Health Information Protection Act. The ten principles are:
- 1.2.1 Accountability
 - 1.2.2 Identifying purpose
 - 1.2.3 Consent
 - 1.2.4 Limiting collection
 - 1.2.5 Limiting use, disclosure and retention
 - 1.2.6 Accuracy
 - 1.2.7 Safeguards Openness
 - 1.2.8 Individual access
 - 1.2.9 Challenging compliance
- Further elaboration of these principles is set out in Attachment A.
- 1.2.10 The agency will maintain a privacy policy for distribution to interested parties, and will post this policy on its website. This is set out in Attachment B.
- 1.3 The agency will publish its policy about the collection, use and disclosure of personal health information belonging to clients, suppliers and members, and members of the general public, including:
- 1.3.1 Personal health information collected and used via any corporate processes including member records, cookies, client records, and supplier records.
 - 1.3.2 The nature of the use of the information and limitations placed by the agency on the use of the information.
 - 1.3.3 The personal heal information disclosure practices of the agency including any restrictions placed on that disclosure.
 - 1.3.4 The limitations in time of holding personal health information collected and used by the agency including the agency's commitment to destroying unneeded information.

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1.3.5 The process by which individuals may access their personal health information

1.4 The agency will maintain high standards of physical and electronic security wherever personal health information is being handled, including:

1.4.1 Electronic records of personal and confidential business information are subject to limited access by authorized personnel. Sensitive files containing personal health information will be protected by password or electronic access restrictions.

1.4.2 Physical records of personal health information will be kept in locked cabinets or secure rooms and accessible only by authorized personnel.

1.5 The agency will establish a Privacy Officer whose name and contact information will form an integral part of the privacy policy. All requests for access to personal health information and all contact with the Information and Privacy Commissioner of Ontario will go through the Privacy Officer.

1.6 Personal health information collected, used or disclosed related to employees will be subject to the same care and conditions as outlined for other personal health information and will be supported by an internal policy on the care and access to employee personal health information. This policy will include:

1.6.1 Details about the information created, collected, used and disclosed, the purpose and limitations of use of the information.

1.6.2 The employee's right to access and correct their personal health information.

1.6.3 Processes related to the access and correction of employee personal health information.

2.0 PURPOSE:

2.1 This Statement of Policy and Procedure encompasses the elements necessary for agency compliance with privacy legislation, principles and practice.

3.0 SCOPE:

3.1 The Confidentiality and Privacy policy applies to all agency personnel.

3.2 It is the agency's intention to apply the principles and practices, outlined in this policy to all contracts and other working arrangements with consultants, contractors or others providing services to the agency. Compliance with the principles outlined in this policy shall be treated as essential for contract compliance.

4.0 RESPONSIBILITY

4.1 It is the responsibility of every employee to ensure that privacy of personal health information is protected and respected.

4.2 It is the responsibility of the Executive Director to appoint a Privacy Officer

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4.3 It is the responsibility of the Privacy Officer to:

- 4.3.1 Develop and maintain both internal and external privacy policies,
- 4.3.2 Ensure that systems and processes re in place to support the policies,
- 4.3.3 Act as an expert resource on privacy within the agency, and
- 4.3.4 Act as a point of contact on privacy issues.

5.0 DEFINITIONS

5.1 “**PHIPA**” is the Personal Health Information Protection Act, the Ontario law governing the collection, use and disclosure of personal health information.

5.2 “**Personal Health Information**” refers to identifying information about an individual in oral or recorded form, if the information.

5.2.1 Relates to the physical or mental health of the individual, including information that consists of the health history of the individual's family;

5.2.2 Relates to the providing of health care to the individual, including the identification of a person as a provider of health care to the individual;

5.2.3 Is a plan of service within the meaning of the *Home Care and Community Services Act, 1994* for the individual;

5.2.4 Relates to payments or eligibility for health care, or eligibility for coverage for health care, in respect of the individual;

5.2.5 Relates to the donation by the individual of any body part or bodily substance of the individual or is derived from the testing or examination of any such body part or bodily substance,

5.2.6 Is the individual's health number, or

5.2.7 Identifies an individual's substitute decision-maker. 2004, c. 3, Sched. A, s. 4 (1); 2007, c. 8, s. 224 (6); 2007, c. 10, Sched. H, s. 2.

5.3 “**Health Care Custodian**” means a person or organization who has custody or control of personal health information as a result of or in connection with performing the person's or organization's powers or duties

5.4 “**Cookies**” refers to log files planted in an individual’s computer hard drive to record and save that personal health information about the individual’s location and preference that it will need to use in future contacts.

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5.5 “**Information and Privacy Commissioner of Ontario**” refers to the individual who has been identified by the provincial government to inform and enforce Ontario’s PHIPA legislation, Freedom of Information and Protection of Privacy Act, and Municipal Freedom of Information and Protection of Privacy Act.

6.0 REFERENCES and RELATED STATEMENTS OF POLICY AND PROCEDURE

- [Board Structure and Mandate](#)
- [Employee Code Of Ethics](#)
- [Code of Conduct](#)

7.0 PROCEDURES

7.1 All employees will protect and respect confidential personal health information by:

- 7.1.1 Not disclosing it inside or outside the agency except as required by Corporate policy.
- 7.1.2 Taking all reasonable steps to secure and protect information. Electronic records will be subject to limited access by authorized personnel in the performance of their duties who must use security measure to limit said access. Printed records of personal health information, when they are not under the control of authorized personnel, will be subject to physical protection such as locked rooms or cabinets, accessible only to authorized personnel.
- 7.1.3 Disclosing to individuals the reason for collecting personal health information about them.
- 7.1.4 Destroying the information when it is no longer required. Personal health information will be destroyed two years after it is no longer required. Files will be destroyed or deleted, except for those on data tapes and financial records, which, in accordance with the law, have to be archived for seven years. (Archived information is not accessed or used for operational purposes).

7.2 Appointment of a Privacy Officer

- 7.2.1 The Executive Director will appoint a Privacy Officer for the agency whose name and contact information will be publicly available as the point of contact for all inquiries or issues related to privacy of personal health information.
- 7.2.2 The Privacy Officer is responsible for:
 - 7.2.2.1 Development and maintenance of corporate privacy policies both for the public and for employee records
 - 7.2.2.2 Thorough review of the agency’s collection, use and disclosure of personal health information to ensure that only required information is dealt with
 - 7.2.2.3 Communication of the privacy policy for the public to the public and to all employees, including necessary employee training

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- 7.2.2.4 Communication of the privacy policy for employee information to all employees, including necessary management training
- 7.2.2.5 Acting as an expert resource for the agency on matters relating to privacy of personal health information
- 7.2.2.6 Ensuring that the agency's systems and procedures meet all legal compliance requirements and are a standard of excellence for respect of personal health information
- 7.2.2.7 Documenting and analyzing all complaints regarding the use, retention or disclosure of personal health information.
- 7.2.2.8 Instituting changes to the policy and related procedures he/she deems necessary in order to respect the principles of this policy

7.3 Detailed Guidelines

7.3.1 Personal health information may be collected without knowledge or consent only in the following circumstances:

- 7.3.1.1 In the event of an emergency that threatens the life, health or security of an individual
- 7.3.1.2 If there is reasonable grounds to believe that the information could be useful to investigate the contravention of a law
- 7.3.1.3 The collection is in the interest of the individual and consent cannot be obtained in a timely way
- 7.3.1.4 The collection of the information with the individual's knowledge or consent would compromise the availability or accuracy of the information and the collection is required to investigate the contravention of a law
- 7.3.1.5 The information is publicly available

7.4 Personal health information may be disclosed without knowledge or consent only in the following circumstances:

- 7.4.1 In the event of an emergency that threatens the life, health or security of an individual
- 7.4.2 To a lawyer representing the agency
- 7.4.3 To collect a debt owed to the agency by the individual
- 7.4.4 To a government institution that has indicated disclosure is required on a matter relating to national security or the conduct of international affairs
- 7.4.5 The information is publicly available
- 7.4.6 If required by law
- 7.4.7 For other circumstances listed in subsection 7(3) of PIPEDA

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- 7.5 Requests from an individual to provide information about their personal health information being collected, used or disclosed by the agency will be answered within 20 days. The agency will not charge a fee for this service.
- 7.6 If an individual withdraws consent for the use of personal health information, the Privacy Officer will take all necessary steps to cease the agency's use of the information within 30 days.

8.0 ATTACHMENTS

Attachment A – 10 Principles for the Protection of Personal Information

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Attachment A – Ten Principles for the Protection of Personal Information

These 10 principles are summarized from a Model Code for the Protection of Personal Information in the National Standard of Canada, based on Schedule I of the PIPEDA legislation. More explicit information can be obtained by referring directly to the Schedule.

Principle 1 – Accountability

An organization is responsible for personal health information under its control and shall designate an individual or individuals who are accountable for the organization’s compliance. Their identity should be made known upon request. The individual bears accountability for compliance regardless of who may perform related day-to-day processes. The agency is responsible for information transferred to a third party for processing and should take steps to provide a comparable level of protection of the information from that third party.

Principle 2 – Identifying Purposes

The purposes for which a agency is collecting personal health information should be identified and documented at or before the time of collection.

Principle 3 – Consent

The knowledge and consent of the individual are required for the collection, use, or disclosure of personal information, except where inappropriate.

Principle 4 – Limiting Collection

The collection of personal information shall be limited to that which is necessary for the purposes identified by the organization. Information shall be collected by fair and lawful means.

Principle 5 – Limiting Use, Disclosure, and Retention

Personal information shall not be used or disclosed for purposes other than those for which it was collected, except with the consent of the individual or as required by law. Personal information shall be retained only as long as necessary for the fulfillment of those purposes.

Principle 6 – Accuracy

Personal information shall be as accurate, complete, and up-to-date as is necessary for the purposes for which it is to be used.

Principle 7 – Safeguards

Personal information shall be protected by security safeguards appropriate to the sensitivity of the information.

Principle 8 – Openness

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An organization shall make readily available to individuals specific information about its policies and practices relating to the management of personal information.

Principle 9 – Individual Access

Upon request, an individual shall be informed of the existence, use, and disclosure of his or her personal information and shall be given access to that information. An individual shall be able to challenge the accuracy and completeness of the information and have it amended as appropriate.

Principle 10 – Challenging Compliance

An individual shall be able to address a challenge concerning compliance with the above principles to the designated individual or individuals accountable for the organization’s compliance.

These principles are usually referred to as “fair information principles”. They are included in the [Personal Information Protection and Electronic Documents Act](#) (PIPEDA), Canada’s private-sector privacy law.