

CATEGORY:	ORGANIZATIONAL: INFORMATION MANAGEMENT
SUB-CATEGORY:	DISCLOSURE OF INFORMATION
GROUP:	
DISTRIBUTION:	ALL STAFF
TITLE:	DISCLOSURE OF INFORMATION – LAW ENFORCEMENT AGENCIES

PURPOSE

To outline the process for responding to requests for disclosure of personal information/personal health information from law enforcement agencies.

POLICY

Please refer to policy 6-02-11 *Duty to Report* which states when it is legally required to report to law enforcement agencies. This includes situations when the interests of public safety override the client/patient/resident’s right to privacy.

Law enforcement agencies may obtain a search warrant to access client/patient/resident records. In these situations, an employee of Western Health must remain present while law enforcement reviews the record. Copies of information must be provided if requested and the warrant or authenticated copy must be placed in the client/patient/resident’s record. The manager must also be notified that the disclosure took place. Whenever possible, the manager is notified prior to the disclosure.

In all other circumstances, personal information/personal health information (hereinafter referred to as information) must only be disclosed to law enforcement agencies with the consent of the client/patient/resident using the *Consent to Disclose/Obtain Information form* or as authorized or required by law. In instances where the information is authorized or required by law, the applicable legislation and section(s) must be provided by the requestor prior to the disclosure of information taking place.

When inquiries/requests for information are received from a law enforcement agency, all employees must immediately make their manager/leader aware of the inquiry/request. The

Regional Patient Safety Officer/Risk Manager and Regional Manager, Information Access and Privacy must be consulted as necessary.

When information is disclosed to a law enforcement agency from a client/patient/resident record that also contains information pertaining to another individual, this information must be redacted from the record. Alternatively, where appropriate, the employee who is processing the disclosure of information request may notify this individual to obtain his/her consent to disclose the information. If the individual responds indicating that s/he does not want the information to be included in the disclosure of information or the individual cannot be notified, a copy will be made that must have the third party information redacted before it is disclosed to the law enforcement agency. The original information must not be altered or disclosed. The employee must document in the client/patient/resident's record either that the third party did not agree or was unable to be contacted.

When an employee of Western Health receives a request to disclose / obtain information, an original *Consent to Disclose/Obtain Information* form is required. Faxed authorizations may only be used in urgent or exceptional circumstances with the reason for doing so outlined in the record. Furthermore, the original authorization must follow. Photocopied consents are not acceptable. A *Consent to Disclose / Obtain Information* form may be sent (e.g. via mail) for the client/patient/resident to sign if necessary.

DEFINITIONS

Third party – For the purposes of this policy, a third party refers to an individual whose personal information/personal health information is included in the record of a client/patient/resident of Western Health.

Redact - Censor or obscure (part of a text) for legal or security purpose, e.g. using a black permanent marker or dry line liquid paper.

PROCEDURE

The employee/manager/leader who is responding to the inquiry/request:

1. Confirms with the requester that the client/patient/resident is aware of the request and that the requester has obtained consent from the client/patient/resident. If the requested information also pertains to another client/patient/resident, proceed to step #2 in the procedure. If this is not the case, proceed to step #3.
2. Obtains the name and section of the applicable law if the requester indicates that s/he is entitled to information without consent and discusses as necessary with the Regional Manager Information Access and Privacy. If a search warrant has been presented, remains present while law enforcement reviews the information and places the warrant or authenticated copy in the client/patient/resident's record.

3. Consults with the Regional Manager Information Access and Privacy as necessary if information is being requested that pertains to an individual other than the client/patient/resident about whom the inquiry/request is being made (eg. requester asks for information about the spouse of the individual and his/her consent has not been obtained for the purposes of the request).
4. Obtains a written request from the law enforcement agency that includes the following information:
 - a. The name and date of birth or MCP number of the client/patient/resident whose information is being requested,
 - b. The specific information (including the name of specific programs/services) being requested, and
 - c. The contact information for the representative of the law enforcement agency who is requesting the information.
5. Documents in the client record the details of the request, the title and section(s) of the legislation under which the information may be disclosed without consent, the warrant or authenticated copy (where applicable), any direction that was sought, to whom information was disclosed, and the specific information that was disclosed to the law enforcement agency.

The leader/manager/director:

1. Provides direction and discusses requests with relevant employees.
2. Consults with the Regional Manager Information Access and Privacy as necessary regarding any concerns relating to disclosure of information.

The Regional Manager Information Access and Privacy:

1. Provides direction to all managers who bring forward disclosure of information issues concerning inquiries/requests from law enforcement agencies.

LEGISLATIVE CONTEXT

Access to Information and Protection of Privacy Act (2004). Available at:
<http://www.assembly.nl.ca/legislation/sr/statutes/a01-1.htm>

Personal Health Information Act (2008). Available at:
<http://www.assembly.nl.ca/legislation/sr/statutes/p07-01.htm>

KEYWORDS

Police, providing information to police

FORMS

[Consent to Disclose/Obtain Information \(#12-475\)](#)

TO BE COMPLETED BY QUALITY MANAGEMENT & RESEARCH STAFF ONLY

Approved By: Chief Executive Officer	Maintained By: Regional Manager, Information Access and Privacy
Effective Date: 26/October/2008	<input checked="" type="checkbox"/> Reviewed: 12/October/2011 <input checked="" type="checkbox"/> Revised: 02/March/2012
Review Date: 02/March/2015	<input checked="" type="checkbox"/> Replaces: <i>(Indicates name and number of policy being replaced)</i> Authorization for Release of Information – Standard/Form (RR-A-200), Release of Information from Clinical Records (AD-R-200), Consent to Release/Obtain Information (Form 12-390), Release of Information (Former HCSW policy 18-06-25) <input type="checkbox"/> New