

CATEGORY:	ORGANIZATIONAL: INFORMATION MANAGEMENT
SUB-CATEGORY:	DISCLOSURE OF INFORMATION
GROUP:	
DISTRIBUTION:	ALL EMPLOYEES/PHYSICIANS
TITLE:	DISCLOSURE OF INFORMATION – MEMBERS OF THE HOUSE OF ASSEMBLY (MHAs)

PURPOSE

To outline the process for responding to requests for clients’/patients’/residents’ personal information/personal health information from Members of the House of Assembly (MHAs)

POLICY

The privacy of all individuals who receive, or have received, services from Western Health must be maintained.

Western Health recognizes the right of individuals who are receiving services to request that their MHA inquire or advocate on their behalf to assist them in resolving issues related to their treatment/care/service. In such instances, it is recognized that MHAs (often represented by their Office staff) may request client/patient/residents’ personal information/personal health information (hereinafter referred to as information.)

Receiving the request

Where the requester is representing the Department of Health and Community Services, please refer to the policy [Disclosure of Information – Government Departments, Agencies, Third Parties](#) (9-02-15). Otherwise, where the client’s/patient’s/resident’s MHA is requesting information employees must:

1. Confirm with the requester that the client/patient/resident is aware of the request and that the requester has obtained appropriate consent. As necessary, please refer to policy [Disclosure of Information – Obtaining Valid and Appropriate Consent](#) (9-02-45) for direction.
2. Obtain a written request that includes the following information:

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- 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,
 - c) The contact information for the MHA who is requesting the information.
3. If the requester indicates that they are authorized to access information without consent, obtain the name and section of the applicable legislation. Following this, the employee must notify the immediate manager who, as necessary, may consult with the Regional Manager Information Access and Privacy or designate.

Preparing information for disclosure to the requester

When preparing the information for disclosure, employees must:

1. Ensure that the written consent of the client/patient/resident has been obtained using the Western Health [*Consent to Disclose/Obtain Information*](#) form (12-475). Alternatively, the requester may provide a disclosure of information form signed by the client, (e.g. from the requester's agency.) This is acceptable provided that the form includes the following information:
 - i) name and other sufficient information to positively identify the client/patient/resident (e.g. date of birth or MCP number) whose information is being requested,
 - ii) identity of the requester (name, title, MHA represented and contact information),
 - iii) signature of client or representative (see definition),
 - iv) signature of requestor, and
 - v) the date the form was signed.

Note: The References section of this policy provides a link to the Department of Health and Community Services *Disclosure of Information to Members of the House of Assembly Policy* which includes the disclosure forms used by MHAs when obtaining consent from individuals.)

2. Whenever possible, written consent must be obtained. Use verbal authorizations only in urgent or exceptional circumstances (e.g. time restrictions) with the reason for doing so outlined in the record. Employees may also follow up with written consent by forwarding the *Consent to Disclose / Obtain Information* form for the client/patient/resident to sign and return to the service provider.

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3. Prior to disclosure:

- ensure that the personal health information being disclosed pertains to the correct individual by cross referencing the client's/patient's/resident's:
 - o name;
 - o date of birth;
 - o MCP number, or other unique identifier, if available; and
 - o address;
- determine the specific information requested, as disclosure must be limited to the minimum amount of personal health information necessary to meet the request;
- review the personal health information intended for disclosure to determine the accuracy, completeness and up-to-date status of the information, e.g. check for personal health information of another client/patient/resident that may have been misfiled on the record;
- as appropriate, remove or redact any such information from the record prior to disclosure, taking care not to alter or inadvertently disclose the original information;
- inform the recipient of the information of any concerns related to the accuracy, completeness or up-to-date status of the personal health information;
- notify the recipient of the information if the employee is disclosing personal health information about an individual with a limited consent directive in place and the personal health information is limited to less than the disclosing employee considers reasonably necessary for the provision of health care to the individual. Please refer to the policy *Limited Consent for the Collection, Use and Disclosure of Personal Health Information* (9-02-55).

4. Document the following information in the client/patient/resident record:

- i) the details of the request,
- ii) where applicable, the title and section(s) of the legislation under which the information may be disclosed without consent,
- iii) any direction that was sought,
- iv) to whom information was disclosed, and
- v) the specific information that was disclosed to the MHA.

The manager/director must:

1. As necessary, provide direction to employees with respect to receiving the request and preparing information for disclosure.
2. Consult with the Regional Manager Information Access and Privacy or designate as necessary regarding any concerns relating to receiving the request and preparing information for disclosure.

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The Regional Manager Information Access and Privacy must:

1. Provide direction with respect to receiving the request and preparing information for disclosure.

DEFINITIONS

Member of the House of Assembly (MHA): One Member of the House of Assembly (MHA) is elected in each provincial electoral district or constituency in Newfoundland and Labrador. MHAs represent the views of constituents in the House of Assembly, and take part in committees and debates on provincial legislation. For the purpose of this policy, reference to the term MHA also includes the Constituency Assistant who is employed by and may act on behalf of the MHA.

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.

Representative: In keeping with the *Personal Health Information Act (PHIA)*, a right or power of an individual may be exercised

- (a) by a person with written authorization from the individual to act on the individual's behalf;
- (b) where the individual lacks the competency to exercise the right or power or is unable to communicate, and where the collection, use or disclosure of his or her personal health information is necessary for or ancillary to a "health care decision", as defined in the *Advance Health Care Directives Act*, by a substitute decision maker appointed by the individual in accordance with that Act or, where a substitute decision maker has not been appointed, a substitute decision maker determined in accordance with section 10 of that Act;
- (c) by a court appointed guardian of a mentally disabled person, where the exercise of the right or power relates to the powers and duties of the guardian;
- (d) by the parent or guardian of a minor where, in the opinion of the custodian, the minor does not understand the nature of the right or power and the consequences of exercising the right or power;
- (e) where the individual is deceased, by the individual's personal representative or, where there is no personal representative, by the deceased's nearest relative, and for this purpose, the identity of the nearest relative may be determined by reference to section 10 of the *Advance Health Care Directives Act*;
- (f) where the individual is a neglected adult within the meaning of the *Neglected Adults Welfare Act*, by the Director of Neglected Adults appointed under that Act; or
- (g) where an individual has been certified as an involuntary patient under the *Mental Health Care and Treatment Act*, by a representative as defined in that Act, except as otherwise provided in this Act.

Third party: For the purposes of this policy, third party includes:

- An individual whose personal information/personal health information is included in the record of a client/patient/resident of Western Health.

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- An individual/organization that is requesting disclosure of information under this policy.

LEGISLATIVE CONTEXT

Access to Information and Protection of Privacy Act (2015). Available at:
<http://www.assembly.nl.ca/legislation/sr/statutes/a01-2.htm>

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

REFERENCES

Government of Newfoundland and Labrador. Department of Health and Community Services. (2015). *Disclosure of Information to Members of the House of Assembly Policy*. Available at:
[DHCS\DOC-18104 -Disclosure of Personal Information to Members of the House of Assembly \(MHAs\) Policy.pdf](#)

Health and Community Services Western. (2005 April). *Policy Manual: Disclosure of Information*

Western Health policy *Disclosure of Information – Government Department, Agencies, Third Parties (9-02-15)*

KEYWORDS

MHAs, disclosing information to MHAs

FORMS

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

TO BE COMPLETED BY STAFF IN QUALITY DEPARTMENT

Approved By: Chief Executive Officer	Maintained By: Regional Manager, Information Access and Privacy
Effective Date: 26/October/2008	<input checked="" type="checkbox"/> Reviewed: 16/July/2018 <input checked="" type="checkbox"/> Revised: 23/August/2019
Review Date: 23/August/2022	<input checked="" type="checkbox"/> Replaces: (WHCC) AD-R-200 Release of Information from Clinical Records (WHCC) RR-A-200 Authorization for Release of Information – Standard/Form (WH) 12-1200 Consent to Release/Obtain Information Form (WH) 18-06-25 Release of Information <input type="checkbox"/> New

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