

CATEGORY:	ORGANIZATIONAL – HUMAN RESOURCES
SUB-CATEGORY:	EMPLOYMENT
GROUP:	
DISTRIBUTION:	ALL EMPLOYEES, PHYSICIANS, AGENTS, CONTRACTORS, VOLUNTEERS, AND HEALTH CARE PROFESSIONALS WHO HAVE THE RIGHT TO TREAT PERSONS AT A HEALTH CARE FACILITY OPERATED BY THE CUSTODIAN
TITLE:	CONFIDENTIALITY

PURPOSE

To outline the responsibilities of employees, physicians, agents, contractors, volunteers, and health care professionals who have the right to treat persons at a health care facility operated by the custodian with respect to protecting confidentiality and privacy.

POLICY

Western Health has a legal and ethical responsibility to protect the confidentiality and privacy of all clients/patients/residents and their families.

All employees, physicians, agents, contractors, volunteers, and health care professionals who have the right to treat persons at a health care facility operated by the custodian are bound by Western Health’s responsibility to protect confidentiality and privacy. As well, regulated health professionals are bound by confidentiality standards as outlined by their respective professional associations. All discussions, information, and records regarding clients/patients/residents and their families will therefore be kept confidential.

Western Health considers the following information to be confidential:

- Personal information / personal health information of clients/patients/residents and their families;
- Personal information, personal health information, employment information, and compensation information of employees, physicians, agents, contractors, volunteers, and health care professionals who have the right to treat persons at a health care facility operated by the custodian;
- Information with respect to the confidential business information of Western Health that is not publicly disclosed by the organization.

While every effort is made to maintain privacy and confidentiality, the organization recognizes that, in practice, reasonable limits may be placed on the principle of confidentiality. These may include but are not limited to:

- Environmental/physical environment;
- Legislative requirements;
- Authorized research;
- Duty to warn;
- Professional practice standards/regulations;
- Organizational policies;
- Provision of health and/or related services within the Circle of Care.

Understanding the environmental limitations inherent in the health care setting, information that is considered confidential and private is not to be discussed in any public location where others, not entitled to receive that information, are present and likely to overhear it.

Any misuse, inappropriate release, inappropriate access, or failure to safeguard information may be subject to disciplinary action up to and including termination of employment / contract for service. All breaches of confidentiality must be treated as an occurrence in accordance with the [Occurrence Reporting policy \(#6 – 02 - 15\)](#) and an *Occurrence Report* form (#12 - 900) must be completed. As well, policy 9-03-10 *Privacy Breach Protocol* must be consulted and followed when breaches of confidentiality occur.

Copies of the [Oath / Affirmation of Confidentiality \(Form # 12 - 800\)](#) must be retained on individuals' files in:

- Human Resources for employees and for agents who are external practitioners;
- Medical Services Office for Physicians, Locums, Residents, Medical Students;
- Residential Services for Volunteers / Students / Resident Assistants;
- Personal file at the School of Nursing for Nursing Students;
- The Department/Unit/Service responsible for hiring and overseeing the work of each Agent;
- The Department/Unit/Service responsible for hiring and overseeing the work of each Contractor;
- The Department/Unit/Service responsible for hiring and overseeing the work of each health care professional who has the right to treat persons at a health care facility operated by the custodian.

All individuals covered under this policy (as outlined above) are required to:

1. Be familiar with the organization's policies and procedures with respect to the collection, use, disclosure, storage, and destruction of confidential information.
2. Collect, access, and use confidential information only as authorized and required to provide care and perform the duties to which they have been assigned.
3. Share, copy, transmit, disclose, or otherwise release confidential information only as authorized and required to provide care or perform assigned duties. (Please also refer to *Release of Information* policies found in section 9 – *Information Management* of Western Health's policy and procedure manual).
4. Safeguard passwords and user codes that are used to access computer systems and programs.
5. Identify confidential information as such when sending e-mails or when faxing or mailing information and provide direction to the recipient if a transmission is received in error. (Please refer to *E-mail* policy (not yet numbered) and policy # [9-01-10 Faxing Information](#)).
6. Discuss confidential information only with those who require this information to provide care or perform their duties and discuss this information in an appropriate environment such that others who do not require access to this information do not hear it.
7. Continue to respect and maintain the terms of the *Oath / Affirmation of Confidentiality* after an individual's employment / affiliation with the organization ends.
8. Agree to:
 - a) review this policy and sign an *Oath / Affirmation of Confidentiality* before commencing employment or providing services at Western Health,
 - b) review program / department specific information, policies, and procedures that relate to confidentiality and privacy,
 - c) participate in confidentiality / privacy education sessions that are offered by the organization,
 - d) review the policy to coincide with the employee *Performance Appraisal*. Note that for external practitioners, the review of the policy will coincide with the annual renewal of the individual's contract to provide services at Western Health.
9. Consult one's manager/supervisor, Regional Manager, Information Access and Privacy, or Regional Risk Manager/Patient Safety Advisor regarding confidentiality issues or inquiries.
10. Report to one's manager/leader suspected breaches of confidentiality or any practices within the organization that compromise confidential information.

DEFINITIONS

Please refer to s.2 of the *Personal Health Information Act* for further information with respect to interpretation.

Agent: In relation to a custodian, means a person that, with the authorization of the custodian, acts for or on behalf of the custodian in respect of personal health information for the purposes of the custodian, and not the agent's purposes, whether or not the agent has the authority to bind the custodian, is paid by the custodian or is being remunerated by the custodian.

Confidential business information: Information with respect to Western Health's business that is not publicly disclosed by the organization. Employees / affiliates may come in contact with such information that is not generally known to the public as they perform their duties. Examples include:

- Legal matters involving the organization that are not public knowledge,
- Financial information that is not available in Western Health's annual report,
- Contractual agreements with vendors, consultants, contractors, and third parties (The confidentiality of this information may be written into the contract, eg. non-disclosure of the cost of the service),
- Information about intellectual property such as development of new technology and treatments or unpublished reports,
- Information pertaining to Western Health's information technology access and security systems such as:
 - Information that could lead to inappropriate access to internal and external computer resources,
 - Information that is regarded as confidential between the vendor and Western Health related to negotiated product discounts,
 - Products that are part of Western Health's security infrastructure or the names of vendors of hardware / software solutions that may be vulnerable to external access attacks.

Health Care Professional: A person, including a corporation, that is licensed or registered to provide health care by a body authorized to regulate a health care professional under one of the following enumerated Acts but does not include an employee of a health care professional when acting in the course of his or her employment:

- (i) *Chiropractors Act*,
- (ii) *Dental Act*,
- (iii) *Denturists Act, 2005* ,
- (iv) *Dieticians Act* ,
- (v) *Dispensing Opticians Act, 2005* ,

- (vi) *Hearing Aid Practitioners Act* ,
- (vii) *Licensed Practical Nurses Act, 2005* ,
- (viii) *Massage Therapy Act, 2005* ,
- (ix) *Medical Act, 2005* ,
- (x) *Occupational Therapists Act, 2005* ,
- (xi) *Optometry Act, 2004* ,
- (xii) *Pharmacy Act* ,
- (xiii) *Physiotherapy Act, 2006* ,
- (xiv) *Psychologists Act, 2005* ,
- (xv) *Registered Nurses Act* , and
- (xvi) *Social Workers Association Act*

Health Care Facility: A facility that provides in-patient health care, including a hospital, a psychiatric unit under the *Mental Health Care and Treatment Act* , a personal care home, a community care home, a long-term care home or other facility designated in the regulations;

Personal information: As defined in the *Access to Information and Protection of Privacy Act (ATIPP)*, recorded information of an identifiable individual, but does not include the name, title, business address / telephone number of an employee.

- (i) the individual's name, address or telephone number,
- (ii) the individual's race, national or ethnic origin, colour, or religious or political beliefs or associations,
- (iii) the individual's age, sex, sexual orientation, marital status or family status,
- (iv) an identifying number, symbol or other particular assigned to the individual,
- (v) the individual's fingerprints, blood type or inheritable characteristics,
- (vi) information about the individual's health care status or history, including a physical or mental disability,
- (vii) information about the individual's educational, financial, criminal or employment status or history,
- (viii) the opinions of a person about the individual, and

(ix) the individual's personal views or opinions;

Personal health information: As defined in the *Personal Health Information Act (PHIA)*, means identifying information in oral or recorded form about an individual that relates to

(a) the physical or mental health of the individual, including information respecting the individual's health care status and history and the health history of the individual's family;

(b) the provision of health care to the individual, including information respecting the person providing the health care;

(c) the donation by an individual of a body part or bodily substance, including information derived from the testing or examination of a body part or bodily substance;

(d) registration information;

(e) payments or eligibility for a health care program or service in respect of the individual, including eligibility for coverage under an insurance or payment arrangement with respect to health care;

(f) an individual's entitlement to benefits under or participation in a health care program or service;

(g) information about the individual that is collected in the course of, and is incidental to, the provision of a health care program or service or payment for a health care program or service;

(h) a drug as defined in the *Pharmacy Act*, a health care aid, device, product, equipment or other item provided to an individual under a prescription or other authorization issued by a health care professional; or

(i) the identity of a person referred to in section 7.

PROCEDURE

Managers/Supervisors:

1. At the commencement of employment or providing services at Western Health, ensure that employees:
 - a) attend a Confidentiality / Privacy session offered by the organization,
 - b) review this policy and sign an *Oath / Affirmation of Confidentiality*, and
 - c) review program / department specific information, policies, and procedures that relate to confidentiality.

2. At the time of completing the Employee Performance Appraisal:
 - a) may request that the employee attend a Confidentiality / Privacy session offered by Western Health;
 - b) will review this policy with the employee; OR
 - c) will review program / department specific information, policies, and procedures that relate to confidentiality and privacy.

3. Review the education database and submit to Organizational Development the names of employees who have received additional information / education for monitoring and tracking purposes. Options for education on confidentiality are available through Organizational Development.

LEGISLATIVE CONTEXT

Access to Information and Protection of Privacy Act, 2004.

<http://www.hoa.gov.nl.ca/hoa/statutes/a01-1.htm>

An Act to Provide for the Protection of Personal Health Information (assented to June 4, 2008; not yet proclaimed)

<http://www.assembly.nl.ca/legislation/sr/annualstatutes/2008/p07-01.c08.htm>

REFERENCES

Komar, Wendy, Privacy Manager. London Health Sciences Centre (LHSC) and St. Joseph's Health Care, London. Retrieved from Canadian Policy and Procedures Network (cppn), 2006 at: <http://ca.groups.yahoo.com/mygroups>. (Used with permission).

KEY WORDS

Confidentiality, oath of confidentiality, affirmation of confidentiality, personal information, personal health information, privacy, confidential

FORMS

[*Oath / Affirmation of Confidentiality \(Form # 12 - 800\)*](#)

TO BE COMPLETED BY QUALITY MANAGEMENT & RESEARCH STAFF ONLY

Approved By: Chief Executive Officer	Maintained By: Regional Manager, Information Access & Privacy
Effective Date: 18/April/2007	<input checked="" type="checkbox"/> Reviewed: June/2007, March 2010 <input checked="" type="checkbox"/> Revised: 11/May/2010
Review Date: 11/May/2013	<input checked="" type="checkbox"/> Replaces: 5-c-160 HCSW AD-C-425 WHCC



OATH / AFFIRMATION OF CONFIDENTIALITY
Form # 12 - 800

I, _____, of _____, solemnly
(Print name) (City / Town, Province of residence)

Swear / Affirm [**check one**] the following:

All clients/patient/residents under the care of Western Health have a right to have their personal information/personal health information treated as confidential.

This statement confirms that I have read and understood policy (2 – 03 – 10) *Confidentiality* for Western Health.

I commit to hold in confidence all personal information / personal health information even after my employment / affiliation with the organization ends.

I understand that I may consult appropriate management personnel regarding this and related policies. I understand that misuse, failure to safeguard, or the disclosure of confidential information without the appropriate approval may be cause for disciplinary action up to and including:

- termination of my employment / contract for service
- reporting to an individual's professional Association / College
- civil action / criminal prosecution.

I have reviewed a copy of Western Health's *Confidentiality* policy.

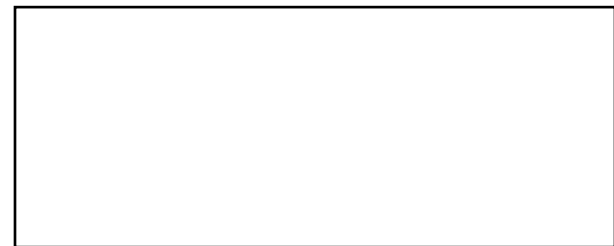
Please note that the completion & signature of this form must be witnessed & stamped by a Commissioner for Oaths.

Printed Full Name: _____

Employee Number: _____

Signature: _____

Date: _____



Commissioner for Oath Stamp