

CATEGORY:	<b>ORGANIZATIONAL: INFORMATION MANAGEMENT</b>
SUB-CATEGORY:	<b>DISCLOSURE OF INFORMATION</b>
GROUP:	
DISTRIBUTION:	<b>ALL STAFF</b>
TITLE:	<b>DISCLOSURE OF INFORMATION – LAWYERS</b>

**PURPOSE**

To outline the process for releasing personal information/personal health information to lawyers.

**POLICY**

Personal information/personal health information (hereinafter referred to as information) must only be disclosed to lawyers 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. A copy of the specific information may then be discussed with or disclosed to the lawyer.

Employees of Western Health must consult with their manager if presented with a subpoena. The manager must consult with the Regional Patient Safety Officer/Risk Manager for further direction.

When information is disclosed to a lawyer 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 disclosure 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 lawyer. 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 disclosure 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.

Similarly, verbal authorizations may only be used in urgent or exceptional circumstances. In those instances, the reason for using verbal versus written authorization must be documented in the client/patient/resident's record. The employee who accepts the verbal authorization for disclosure of information must make every effort to follow up the verbal authorization with written authorization.

Upon releasing information, employees of Western Health must document that the *Consent to Disclose / Obtain Information* form was signed and the manner in which the information was disclosed (eg. photocopies provided, telephone contact, direct viewing of the record). The employee must also place the *Consent to Disclose/Obtain Information* form in the client/patient/resident's record.

## 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.
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 lawyer 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 lawyer 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 lawyers.

**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**

*Lawyers, releasing information to lawyers*

**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 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