

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

PURPOSE

To outline the responsibilities of employees, physicians, agents (e.g. students), 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 privacy and confidentiality 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 as per applicable Human Resources policy and procedure.

All breaches of confidentiality must be treated as an occurrence in accordance with the [Occurrence Reporting policy \(6 – 02 - 15\)](#) and an *Occurrence Report* must be completed. As well, the [Privacy Breach](#) policy (9-03-10) must be consulted and followed when breaches of confidentiality occur.

All individuals covered under this policy are required to:

1. Familiarize themselves 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. Consult one’s manager/director/senior leader and/or Regional Manager, Information Access and Privacy or designate regarding confidentiality issues or inquiries.
4. 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 *Disclosure of Information* policies found in section 9 – *Information Management* of Western Health’s policy and procedure manual).
5. Take preventative measures to maintain the security of confidential information (Please also refer to the [Security of Confidential Information policy](#) (10-01-60))

6. Identify confidential information as such when sending emails or faxing or mailing information and provide direction to the recipient if a transmission is received in error. (Please refer to [E-mail Acceptable Use](#) policy (10-01-50) and [Faxing Information](#) policy (9-01-10).
7. 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.
8. Report to one's manager/director/senior leader and/or Regional Manager, Information Access and Privacy or designate any suspected breach of confidentiality or any practices where one believes that confidential information within the organization is at risk.
9. Continue to respect and maintain the terms of the *Oath / Affirmation of Confidentiality* both during and after the course of services provided to Western Health as the *Oath / Affirmation of Confidentiality* survives the termination of employment / engagement with Western Health.

All Employees, Managers, Directors / Senior Leaders must:

1. At the commencement of employment, contract or service provision with Western Health, ensure that the individual:

- a) Reviews this policy and completes an [Oath / Affirmation of Confidentiality](#) (Form # 12-800) to be retained on the individual's personal file;
- b) Completes a Privacy/Confidentiality education session offered by the organization including, but not limited to, the provincial *Personal Health Information Act* (PHIA) online education program and present a certificate of completion to one's manager/director/senior leader as requested;
- c) Reviews applicable program/department specific policies and procedures that relate to privacy and confidentiality.

2. As required on an ongoing basis:

- a) Address any confidentiality concerns and potential privacy breaches with the individual. Please refer to the [Privacy Breach policy \(9-03-10\)](#);
- b) Ensure that the individual reviews this policy and completes an *Oath / Affirmation of Confidentiality* to be retained on the individual's personal file and present a certificate of completion to one's manager/director/senior leader as requested;
- c) Identify and refer any individual for further information/education on privacy and confidentiality, as deemed appropriate, including, but not limited to, the provincial *Personal Health Information Act* (PHIA) online education program.
- d) For monitoring and tracking purposes, submit to Employee Development the names of

employees who have received additional information/education on privacy and confidentiality.

3. At the time of the Employee Performance Appraisal:

- a) Review this policy with the individual. 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.

4. Every five years, ensure that the individual:

- a) Reviews this policy and completes an *Oath / Affirmation of Confidentiality* to be retained on the individual's personal file;
- b) Completes a Privacy/Confidentiality education session offered by the organization including, but not limited to, the provincial *Personal Health Information Act* (PHIA) online education program, and presents a certificate of completion to one's manager/director/senior leader as requested.

At the commencement of service provision with Western Health all Trustees, Volunteers (includes Pastoral Care volunteers) and Students must:

1. Review this policy and complete an [*Oath/Affirmation of Confidentiality \(Contractors/Vendors\) \(Form #12-805\)*](#) to be retained on the specific department / program file;
2. Review Western Health information/learning resources regarding the duties imposed by the *Personal Health Information Act* and its regulations;
3. Review applicable program/department specific information policies and procedures that relate to privacy and confidentiality.

At the commencement of contract or service provision with Western Health all Contractors and Vendors must:

1. Review this policy and complete an *Oath/Affirmation of Confidentiality (Contractors/Vendors)* to be retained by Western Health as part of the service contract.
2. Review Western Health information/learning resources regarding the duties imposed by the *Personal Health Information Act* and its regulations, as well as the information policies and procedures of Western Health relating to same.
3. Enter into a written and binding service agreement contract with Western Health which ensures the protection of personal health information against unauthorized access, use, disclosure, disposition, loss or modification in accordance with Western Health policies and procedures.

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. This includes physicians, volunteers, pastoral care workers, as well as staff and contractors and other persons working with Western Health or affiliated with Western Health.

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.

Privacy: The right of individuals to control the collection, use and disclosure of information about themselves.

LEGISLATIVE CONTEXT

Access to Information and Protection of Privacy Act, 2004.

<http://www.assembly.nl.ca/legislation/sr/statutes/a01-1.htm>

Personal Health Information Act, 2008

<http://www.assembly.nl.ca/legislation/sr/statutes/p07-01.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 \(Form # 12 - 800\)*](#)

[*Oath/Affirmation of Confidentiality \(Contractors/Vendors\) \(Form # 12-805\)*](#)

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: March 2010 <input checked="" type="checkbox"/> Revised: 03/September/2014
Review Date: 03/September/2017	<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 and signature of this form must be witnessed, signed and stamped by a Commissioner for Oaths appointed in the province of Newfoundland and Labrador.

Commissioner for Oath Signature:

Employee Printed Full Name: _____

Employee Number: _____

Signature: _____

Date: _____

Commissioner for Oath Stamp



Oath/Affirmation of Confidentiality (Contractors/Vendors)

This Privacy/Confidentiality Oath or Affirmation (the “**Oath or Affirmation**”) encompasses confidential, private, personal and personal health information (herein referred to as “**Information**”) concerning clients, staff and the business of Western Health. As a contractor/vendor to Western Health, _____ (name of contractor/vendor), its agents, employees, or representatives (collectively, the “**Company**”) may be granted access to such information. This access will be gained through appropriate authorization and shall be used only for the purpose for which the access was granted. The Company recognizes that in the provision of goods or services or generally acting during the course of its contract with Western Health (the “**Contract**”), the Company may also inadvertently gain access to information. All information must be protected to ensure maintenance of full confidentiality and privacy.

Please note: An “oath” is a promise or statement of fact made upon someone or something that is sacred (i.e. God) as bearing witness; an “affirmation” may be used by those individuals who prefer to avoid the religious implications of an oath. Both an affirmation and an oath have the same legal effect).

As a contractor/vendor, I _____ (name), an officer or director of the Company, hereby swear (or affirm) on behalf of the Company that:

- a) to read in its entirety and understand Western Health’s policies on privacy and confidentiality, attached hereto as “Schedule A” on Privacy and Confidentiality, including responsibilities regarding the protection of information obtained during and after the Contract with Western Health.
- (b) to not at any time divulge to any person(s) within or outside, any information except as may be required in the course of the duties and responsibilities associated with the Contract, and then, any disclosure of information will only be the minimal amount required in the particular situation. Further, to acknowledge and agree that any information obtained during the life of the Contract shall not be divulged upon and following completion of the Contract.
- (c) to communicate Western Health’s Privacy/Confidentiality requirements to the Company’s employees, contractors, subcontractors or any other party that the Company may engage to assist in any part of the completion of the Contract and to bind them to comply with the terms of Western Health’s Privacy/Confidentiality Policy.

- (d) to immediately notify Western Health if the Company becomes aware of a breach or possible breach of confidentiality, whether the awareness of the breach is by an officer, director, employee, agent, representative, contractor or subcontractor or any other party that the Company may engage to assist in any part of the completion of the Contract.
- (e) at the expiration of the Contract, to provide documentation of the secure and safe destruction of any information acquired through the Contract, if destruction is required by Western Health.
- (f) to comply with all obligations and requirements imposed under any applicable privacy laws, which may include the *Personal Health Information Act* SNL 2008 c.P-7.0, (PHIA) @ <http://assembly.nl.ca/Legislation/sr/statutes/p07-01.htm> and the *Access to Information and Protection of Privacy Act (ATIPPA)* @ <http://assembly.nl.ca/Legislation/sr/statutes/a01-1.htm> as such apply to the collection, use, disclosure, storage, retention and transfer of information. In particular, the Company is aware of its obligation to:
 - i. protect the confidentiality of information that is in my custody and control or under my control about individuals and the privacy of the individuals who are the subject of that information;
 - ii. provide for the secure storage, retention and disposal of personal health information to minimize the risk of unauthorized access to or disclosure of the personal health information of individuals.
- (g) if I have questions or concerns regarding access, disclosure or use of Information, I am responsible for addressing these questions or concerns with the appropriate personnel at Western Health.

SWORN TO [or AFFIRMED] at _____ (town/city) in the Province/State of _____ this _____ day of _____, 20____.

Before me:

Notary Public or Commissioner for Oaths
(who shall affix his/her seal)

Person Swearing/Affirming
Print Name: _____
Title: _____