

CATEGORY:	ORGANIZATIONAL: INFORMATION MANAGEMENT
SUB-CATEGORY:	DISCLOSURE OF INFORMATION
GROUP:	
DISTRIBUTION:	ALL STAFF
TITLE:	COLLECTION OF PERSONAL HEALTH INFORMATION

PURPOSE

- To assist employees in identifying the purposes for which personal health information may be collected.
- To provide an understanding of the general requirements relating to the collection of personal health information.

POLICY

1. Collection of Personal Health information - Generally

Prior to collecting personal health information from a client/patient/resident employees must inform clients/patients/residents of the purpose for which their information is being collected, and all reasonably foreseeable uses and disclosures. The *Protecting Your Privacy* brochure and poster must be made available in all reception/waiting areas within Western Health. At the discretion of the program/service, employees may provide a copy of the brochure to individual client /patients/residents and review the information contained in it with them.

Employees must not collect personal health information about a client/patient/resident unless:

- The individual who is the subject of the information has consented to its collection and the collection is necessary for a lawful purpose, e.g. to provide health care to the individual; or
- The collection is permitted or required by the *Personal Health Information Act (PHIA)* as outlined in this policy.

Ideally employees must collect personal health information directly from the individual who is the subject of the information. Employees may collect personal health information about a client/patient/resident without their consent when the client/patient/resident is incapable of providing consent and the collection is necessary to provide health care when:

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- There is no authorized representative who can provide consent on behalf of the client/patient/resident or, consent cannot be obtained in a timely manner; or
 - The client/patient/resident has been certified or is the subject of a community treatment order under the *Mental Health Care and Treatment Act*.

Employees must not collect personal health information if other information will serve the purpose of the collection, unless required by law to collect the information, e.g. information is readily available in a Western Health clinical information system and client/patient/resident is asked to provide it again by completing a form.

As well, employees must not collect more personal health information than is reasonably necessary to meet the purpose of the collection unless there is a legal requirement to collect that information.

Consent directives limiting or withdrawing consent must not restrict the recording of personal health information required by standards of professional or institutional practice. Please refer to policy *Limited Consent for the Collection, Use and Disclosure of Personal Health Information* (9-02-55).

2. Indirect Collection of Personal Health Information

It is recognized that there are situations whereby information may be indirectly collected.

Indirect collection of personal health information is permitted in the following situations:

- **Where consent is provided**
 - Where the client/patient/resident authorizes collection from another source, e.g. from an individual who is not included in the circle of care.
- **Health care delivery**
 - Where the individual is not able to provide information in an accurate or timely manner;
 - Where the individual is unable to provide information and the custodian collects the information from:
 - A person with written authorization from the individual to act on their behalf;
 - A substitute decision maker in accordance with the *Advance Health Care Directives Act*;
 - A court appointed guardian of a mentally disabled person;
 - The parent or guardian of a minor;
 - The personal representative or next of kin when an individual is deceased;
 - By the director where the individual is an adult in need of protection under the *Adult Protection Act*; or
 - A representative for an involuntary patient as defined under the *Mental Health Care and Treatment Act*.

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- For the purpose of assembling a family or genetic history where the information collected will be used in the context of providing a health service to the individual;
 - For determining or verifying the individual's eligibility to participate in a health care program or to receive a benefit, product or health care service.
 - **Authorized Research**
 - To carry out a research project that has been approved by the research ethics board or a research ethics body in accordance with the *Health Research Ethics Authority Act*. For further information please also refer to policy *Review and Approval of Research and Data Requests* (6-03-11).
 - **Legal Proceedings**
 - When an Act, an Act of Canada, a treaty, agreement or arrangement made under an Act or an Act of Canada permits or requires the collection or disclosure;
 - Custodians including the Regional Health Authorities, boards, councils, committees, commissions, corporations or agencies established by the board, departments created under the Executive Council Act and/or the minister, is collecting information related to
 - the investigation of a breach of an agreement or a contravention or an alleged contravention of the laws of the province or of Canada,
 - the conduct of a proceeding or a possible proceeding, or
 - a statutory function of the custodian

and the method of collection is authorized by law; or

- **Health Care Planning**
 - Where the custodian collects information for the purpose of analysis or compiling statistical information respecting the management, evaluation or monitoring of the allocation of resources to, or planning for the health care system.

DEFINITIONS

Collection: In relation to personal health information *collection* means to gather, acquire, receive or obtain the information by any means from any source, and the term *collect* has a corresponding meaning.

Indirect collection: In relation to personal health information *indirect collection* means to collect personal health information about an individual from a source other than the individual to whom the information pertains.

Personal Health Information: Personal health information means identifying information in oral or recorded form about an individual within the meaning of the *Personal Health Information Act (PHIA)* and includes:

- (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;

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- (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.
- (2) For the purpose of paragraph (1)(b), "information respecting the person providing health care" means, in relation to that person, the following information as applicable:
- (a) the name, business title, address and telephone number;
 - (b) licence number; and
 - (c) profession, job classification and employment status.

Representative: Representative has the meaning set out in the *Personal Health Information Act (PHIA)* as follows:

7. A right or power of an individual under this Act or the regulations 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

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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.

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

Western Health poster - *Protecting Your Privacy*
Western Health brochure – *Protecting Your Privacy*
Policy (9-02-45) *Disclosure of Information – Obtaining Valid and Appropriate Consent*

KEYWORDS

Identifying purposes, personal health information, collecting client information

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 type="checkbox"/> Reviewed: <input checked="" type="checkbox"/> Revised: 09/October/2018
Review Date: 09/October/2021	<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) 18 – 06 – 25 Release of Information (WH) 12 – 1200 Consent to Release/Obtain Information <input type="checkbox"/> New

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