

CATEGORY:	ORGANIZATIONAL: INFORMATION MANAGEMENT
SUB-CATEGORY:	DISCLOSURE OF INFORMATION
GROUP:	
DISTRIBUTION:	ALL EMPLOYEES
TITLE:	DISCLOSURE OF INFORMATION – GOVERNMENT DEPARTMENTS, AGENCIES, THIRD PARTIES

PURPOSE

To outline the process for responding to requests for clients’/patients’/residents’ personal information/personal health information from government departments, agencies, third parties.

POLICY

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

It is also recognized that government departments, agencies, third parties may request client/patient/resident personal information/personal health information (hereinafter referred to as information.)

Receiving the request

Where the requester is representing a Member of the House of Assembly (MHA), Department of Health and Community Services or the Department of Children, Seniors and Social Development, in addition to the following information, please refer to the appropriate section of this policy which addresses these topics.

When government departments, agencies, third parties are requesting client/patient/resident 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.

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2. Obtain a written request 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,
 - c) The contact information for the representative of the government department, agency, third party 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 date of birth or MCP number of the client/patient/resident whose information is being requested,
 - ii) identity of the requester (name, title, agency/organization represented and contact information),
 - iii) signature of client or his/her representative (see definitions),
 - iv) signature of requestor, and
 - v) the date the form was signed.
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 (12-475) for the client/patient/resident to sign and return to the service provider.

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 government department, agency, third party.

The manager/director must:

1. As necessary, provide direction to employees with respect to receiving the request and preparing information for disclosure.

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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 to the requester.

The Regional Manager Information Access and Privacy must:

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

Responding to requests for personal information/personal health information from Members of the House of Assembly (MHAs), Department of Health and Community Services and Department of Child, Youth and Family Services

Members of the House of Assembly (MHAs)

All employees must refer to the policy [*Disclosure of Information – Members of the House of Assembly \(MHAs\)*](#) (9-02-20) for further direction.

Department of Health and Community Services

The consent of the client/patient/resident is not required to disclose personal information/personal health information to the Department of Health and Community Services where the Department of Health and Community Services requests that such information be provided. In such cases, the applicable provincial legislation (e.g. *Regional Health Authorities Act*, *Regional Health Authorities Regulations* and/or *Personal Health Information Act*) permits or mandates disclosure.

Department of Children, Seniors and Social Development (CSSD)

Disclosure without Consent

The Western Health [*Duty to Report*](#) policy (6-02-11) requires reporting to a Department of Children, Seniors and Social Development (CSSD) social worker or manager, and/or law enforcement agency, any incidents where they have reasonable grounds to suspect that a child or youth is or may be in need of protective intervention, in keeping with section 11 of the Children, Youth and Families Act (2018).

As well, a social worker or manager employed by CSSD may contact a Western Health employee seeking information without consent about a child, youth or parent to assist them in exercising their powers or performing their duties or functions under the Children, Youth and Families Act. In accordance with section 96 of the Children, Youth and Families Act, these powers, duties or functions include those relating to investigations, assessments, or in determining whether a child or youth is, or remains, in need of protective intervention.

As stated in Steps 2 and 3 of the above section of this policy titled *Receiving the request*, Western Health employees must obtain a written request and confirm the legal authority to

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disclose the information. As such, when CSSD is requesting information without consent, prior to disclosure, employees must confirm whether the CSSD social worker or manager is requesting the information under section 96 of the Children, Youth and Families Act and obtain a completed [Request for Information-\(Section 96 of Children, Youth and Families Act\)](#). Note that if the CSSD social worker or manager assesses the need for the information being requested under section 96 to be emergent, they may request the information via other means, e.g. telephone. Where this occurs, employees may disclose the requested information; however, employees must ensure that CSSD provides the written request as soon as possible for filing in the client's/patient's record. Employees of the Population Health Branch please also refer to the [Consent for Service](#) policy (18-06-20).

Employees managers may seek consultation as outlined in this policy.

Disclosure with Consent

When CSSD is requesting information and is not citing the legal authority under the Children, Youth and Families Act for Western Health to disclose the information without consent, employees must follow the steps outlined in this policy, which includes ensuring that the requester, in this case CSSD, provides appropriate consent from the client/patient. In these instances, employees must proceed in keeping with this policy, in particular, the above sections titled *Receiving the request* and *Preparing information for disclosure to the requester*.

When contacting CSSD to obtain information pertaining to a client/patient, Western Health employees must obtain written consent from the client using the [Consent to Disclose/Obtain Information](#) form (12-475). Employees of the Population Health Branch please also refer to the [Consent for Service](#) policy (18-06-20).

Employees/managers may seek consultation as outlined in this policy.

DEFINITIONS

Child: For the purpose of the Children, Youth and Families Act, "child" means a person actually or apparently under 16 years of age.

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.

Parent: For the purpose of the Children Youth and Families Act, "parent" means

- (i) the custodial mother of a child or youth,
- (ii) the custodial father of a child or youth,

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- (iii) a custodial step-mother of a child or youth,
- (iv) a custodial step-father of a child or youth,
- (v) a non-custodial mother of a child or youth who regularly exercises or attempts to exercise rights of access,
- (vi) a non-custodial father of a child or youth who regularly exercises or attempts to exercise rights of access,
- (vii) a person to whom custody of a child or youth has been granted by a written agreement or by a court order, or
- (viii) a person who is responsible for the child's or youth's care and with whom the child or youth resides, except a foster parent;

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:

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- An individual whose personal information/personal health information is included in the record of a client/patient/resident of Western Health.
 - An individual/organization that is requesting disclosure of information under this policy.

Youth: For the purpose of the Children, Youth and Families Act, youth means a person who is at least 16 years of age but under 18 years of age.

LEGISLATIVE CONTEXT

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

Children, Youth and Families Act (2018) Available at:
<https://www.assembly.nl.ca/Legislation/sr/statutes/c12-3.htm>

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

Regional Health Authorities Act (2006). Available at:
<http://www.assembly.nl.ca/legislation/sr/statutes/r07-1.htm>

Regional Health Authorities Regulations under the Regional Health Authorities Act (O.C. 2008-059) (2008). Available at:
<http://www.assembly.nl.ca/Legislation/sr/Regulations/rc080018.htm>

REFERENCES

Government of Newfoundland and Labrador, Department of Child, Youth and Family Services, Office of Deputy Minister. (June 3, 2015). *Requests for Information from Dept. of Child, Youth and Family Services*.

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

Western Health policy *Disclosure of Information – Members of the House of Assembly (MHAs)* (9-02-20)

Western Health policy *Duty to Report* (6-02-11)

Western Health policy *Consent for Service for Individuals* (18-06-20)

Children, Youth and Families Act (2018) Available at:
<https://www.assembly.nl.ca/Legislation/sr/statutes/c12-3.htm>

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KEYWORDS

Government departments, disclosing information to government departments, agencies, disclosing information to agencies, third parties, disclosing information to third parties

FORMS

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

[Request for Information \(Section 96 of Children, Youth and Families Act \(12-2595\)\)](#)

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: 26/February/2020
Review Date: 26/February/2023	<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 (WH) 18-06-25 Release of Information <input type="checkbox"/> New

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