

Title: Listing of Privacy Definitions

Effective Date: December 1, 2011

1. DEFINITIONS:

- 1.1. Access: The right of an individual (client) or a person permitted to exercise the rights of that individual to examine (view) and receive a copy of the individual's personal health information maintained by the trustee.
- 1.2. Agent: Includes a student or volunteer and if the trustee is a corporation, an officer or director.
- 1.3. Breach of Security: Occurs whenever personal health information is collected, used, disclosed or accessed other than as authorized, or its integrity is compromised.
- 1.4. Client: The person(s) in receipt of the occupational therapy service.
- 1.5. Complaint: A complaint made to a trustee by an individual and/or by the Provincial Ombudsman about collection, access, correction, use, disclosure, protection and privacy of personal health information.
- 1.6. Confidentiality: The obligation of a trustee to protect the personal health information entrusted to it, to maintain the secrecy of the information and not misuse or wrongfully disclose it.
- 1.7. Demographic Information: An individual's name, address, telephone number, and email address.
- 1.8. Disclosure of Personal Health Information: Revealing the personal health information outside the trustee, i.e. to other trustees, to family and friends of the individual, or to other persons legally entitled to have personal health information released to them.
- 1.9. Eligibility Information:
 - Name;
 - Signature;
 - Address;
 - Telecommunications information;
 - Sex;
 - Date of birth;
 - Date of death;
 - Family associations;
 - Eligibility for health care coverage;
 - Jurisdiction of residence;
 - Manitoba Health family registration number;
 - Personal Health Information Number (PHIN);
 - A unique identifier equivalent to the PHIN assigned by another jurisdiction that pays for health care;
 - A unique identifier assigned by a trustee, when accessed by that trustee;
 - A non-Canadian health identification number.

- 1.10. Express Consent: Consent given directly by an individual in oral, written or electronic form. For example, completion of a consent form by an individual that authorizes the disclosure of the individual's own personal health information is a form of express consent.
- 1.11. Explicit Consent: Expressly stated voluntary agreement, permission, compliance.
- 1.12. Health Care: Any care, service or procedure provided to diagnose, treat or maintain an individual's health; provided to prevent disease or injury or promote health care; or that affects the structure or a function of the body and includes the sale or dispensing of a drug, device, equipment or other item pursuant to a prescription.
- 1.13. Health Care Facility: A hospital, personal care home, psychiatric facility, medical clinic, laboratory, CancerCare Manitoba and community health centre or other facility in which health care is provided and that is designated in the PHIA regulations.
- 1.14. Health Professional: A person who is licensed or registered to provide health care under an Act of the Legislature or who is a member of a class of persons designated as health professionals in the PHIA regulations.
- 1.15. Health Services Agency: An organization that provides health care such as community or home-based health care pursuant to an agreement with the trustee.
- 1.16. Implied Consent: In all circumstances, the purpose of the use or disclosure would become reasonably obvious to the individual the information is about (or another person permitted to exercise the right of an individual), it is reasonable to expect that they would consent and the information is used or disclosed only for the purpose it was collected.
- 1.17. Implicit Consent: Implied, though not plainly expressed voluntary agreement, permission.
- 1.18. Individual: A person receiving health care services. For the purpose of access, correction, use and disclosure of personal health information includes persons permitted to exercise the rights of the individual. For clarity, health care services means occupational therapy services provided to clients in any setting.
- 1.19. Information Manager: A person or body (corporation, business, or association) that processes, stores or destroys personal health information or provides information management or information technology services for the trustee.
- 1.20. Institutional Research Review Committee: A committee formally established by a health care facility, university or similar body
 - to review the efficacy and scientific and ethical value of a research proposal involving human subjects or involving the review of records containing personal health information; and
 - to ensure that the person proposing the research has adequate safeguards in place to protect the confidentiality of personal health information.

- 1.21. Integrity of Personal Health Information: The preservation of its content throughout storage, use, transfer, and retrieval so that there is confidence that the information has not been tampered with or modified other than as authorized.
- 1.22. Knowledgeable Consent: Consent is knowledgeable if the individual who gives it has been provided with the information that a reasonable person in the same circumstances would need in order to make a decision about the use or disclosure of the information.
- 1.23. Maintain: In relation to personal health information, to have custody or control of the information.
- 1.24. Notice of Right to Access Information: Individuals must be informed of their right to examine and receive a copy of their personal health information and how they can exercise that right.
- 1.25. Personal Digital Assistants (PDAs) includes wireless devices such as Blackberries, iPhones or Palm Pilots that provide organizer capabilities, and access through synchronization to email, calendar and internet functionality
- 1.26. Personal Health Information: Recorded information about an identifiable individual that relates to:
- the individual's health, or health care history, including genetic information about the individual;
 - the provision of health care to the individual; or
 - payment for health care provided to the individual;
- and includes:
- the PHIN (personal health identification number) and any other identification number, symbol or particular assigned to an individual; and
 - any identifying information about the individual that is collected in the course of, and is incidental to, the provision of health care or payment for health care.
- 1.27. PHIA: *The Personal Health Information Act* (Manitoba).
- 1.28. PHIN: The personal health identification number assigned to an individual by the minister to uniquely identify the individual for health care purposes.
- 1.29. Personal Information: Information about an identifiable individual that is recorded in any form such as:
- (a) information relating to the race, national or ethnic origin, colour, religion, age or marital status of the individual;
 - (b) information relating to the education or the medical, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;
 - (c) any identifying number, symbol or other particular assigned to the individual,
 - (d) the address, fingerprints or blood type of the individual.

But does not include the name, title or business address or telephone number of an employee of an organization.

1.30. Personal Representative:

- an executor/executrix or joint executor/executrix named in a deceased individual's will; or
- a court appointed administrator or joint administrator of a person's estate.

1.31. Persons Permitted to Exercise the Rights of an Individual includes:

- 1.31.1. (a) any person with written authorization from the individual to act on the individual's behalf;
- (b) a proxy appointed by the individual under *The Health Care Directives Act*;
- (c) committee appointed for the individual under *The Mental Health Act* if the committee has the power to make health care decisions on the individual's behalf;
- (d) a substitute decision maker for personal care appointed for the individual under *The Vulnerable Persons Living with a Mental Disability Act* if the exercise of the right relates to the powers and duties of the substitute decision maker;
- (e) the parent or guardian of an individual who is a minor, if the minor does not have the capacity to make health care decisions;
- (f) if the individual is deceased, his or her personal representative.

1.31.2. If it is reasonable to believe that no person listed in any clause of 1.29.1 exists or is available, the adult person listed first in the following who is readily available and willing to act may exercise the rights of an individual who lacks the capacity to do so:

- (a) the individual's spouse, or common-law partner, with whom the individual is cohabiting;
- (b) a son or daughter;
- (c) a parent, if the individual is an adult;
- (d) a brother or sister;
- (e) a person with whom the individual is known to have a close personal relationship;
- (f) a grandparent;
- (g) a grandchild;
- (h) an aunt or uncle;
- (i) a nephew or niece.

Ranking: The older or oldest of two or more relatives described in any clause of 1.29.2 is to be preferred to another of those relatives.

1.32. PIPEDA: *The Personal Information Protection and Electronic Documents Act* (Canada).1.33. Portable Electronic Devices: Includes all mobile computing devices used to store personal health information or personal information. Examples include but are not limited to:

- Laptop/Notebook computers;

- Personal Digital Assistants;
- Cellular phones; and
- Removable Storage Devices.

1.34. Privacy: The fundamental right of the individual to control the collection, use and disclosure of their personal health information.

1.35. Record or Recorded Information: A record of information in any form, and includes information that is written, photographed, recorded or stored in any manner, on any storage medium or by any means, including by graphic, electronic or mechanical means, but does not include electronic software or any mechanism that produces records.

For clarity, a record means information, however recorded (e.g. written, audio, video, computer disk), generated by the occupational therapist or a person supervised by the occupational therapist. This includes but is not limited to assessments and evaluations, therapy goals, progress towards goals, attendance and remuneration records. When the record belongs to the occupational therapist it may also include items not generated by the occupational therapist such as, but not limited to, a referral, correspondence, and reports prepared by others.

1.36. Record of User Activity: A record about access to personal health information maintained on an electronic information system, which identifies the following:

- individuals whose personal health information has been accessed,
- persons who accessed personal health information,
- when personal health information was accessed,
- the electronic information system or component of the system in which the personal health information was accessed,
- whether personal health information that has been accessed is subsequently disclosed under section 22 of PHIA.

1.37. Removable Storage Devices (Electronic Storage Media): Includes diskettes, magnetic tape, CD ROMS, disk drives, laser disks and any small portable memory card or drive that plugs into any computer's USB port and can function as a storage device or a portable hard drive. Examples of removable storage devices include but are not limited to Universal Serial Bus (USB Drive), iPods, Zip Drive, Flash Drive, or Tokens.

1.38. Representative: In relation to an individual, means persons permitted to exercise the rights of an individual.

1.39. Secured Place: A physical environment for the storage or handling of personal health information that includes the applicable following characteristics:

- not readily accessible by unauthorized users;
- supervised or monitored by authorized users;
- keyed to allow entrance to authorized users only;
- locked when authorized users are not in attendance;
- protected by controls to minimize loss, destruction or deterioration caused by fire, water, or humidity damage; and

- proper containers and adequate labeling are used to reduce accidental loss or destruction.
- 1.40. Security: The process of protecting the personal health information by assessing threats and risks to information and taking steps to mitigate these threats and risks. The result is the consistent application of standards and controls to protect the integrity and privacy of the information during all aspects of its use, processing, disclosure, transmittal, transport, storage, retention including conversion to a different medium and destruction.
- 1.41. Trustee: A health professional, health care facility, public body, or health services agency that collects or maintains personal health information. For clarity, an occupational therapist is a trustee under the PHIA if he or she is a registered occupational therapist and is self employed or employed by a non-trustee. Health professionals employed by a trustee, such as a hospital or a government agency, etc are not considered trustees; however as employees of these facilities, occupational therapists must comply with the PHIA.
- 1.42. Use: Involves revealing personal health information to someone within the trustee's own organization who needs to know the information to do their job. Use includes processing, reproduction, transmission and transportation of personal health information.
2. **POLICY:** N/A
3. **PROCEDURE:** N/A
4. **REFERENCES:**
- 4.1. *The Personal Health Information Act.*
 - 4.2. *Personal Health Information Regulation.*
 - 4.3. *College of Occupational Therapist of Manitoba Member information and Resources Manual.*
 - 4.4. COACH: Canada's Health Informatics Association, Guidelines for the Protection of Health Information.
 - 4.5. *The Personal Information Protection and Electronic Documents Act.*