

Title: Use of Personal Health Information Policy

Effective Date: December 1, 2011

1. **PURPOSE:**

- 1.1. To ensure that the Individual's right to privacy of their personal health information including demographic information is protected during use as set out under *The Personal Health Information Act* ("PHIA").
- 1.2. To detail the conditions and restrictions on the trustee's ability to use personal health information.

2. **DEFINITIONS:**

- 2.1. 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.
- 2.2. Demographic Information: An individual's name, address, telephone number and email address.
- 2.3. 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.
- 2.4. 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.
- 2.5. 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.
- 2.6. 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.
- 2.7. Health Services Agency: An organization that provides health care such as community or home-based health care pursuant to an agreement with the trustee.
- 2.8. 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.
- 2.9. 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.
- 2.10. Maintain: In relation to personal health information, to have custody or control of the information.
- 2.11. 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.
- 2.12. PHIA: *The Personal Health Information Act* (Manitoba).
- 2.13. PHIN: The personal health identification number assigned to an individual by the minister to uniquely identify the individual for health care purposes.
- 2.14. 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.
- 2.15. Persons Permitted to Exercise the Rights of an Individual includes:
- 2.15.1. (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.
- 2.15.2. If it is reasonable to believe that no person listed in any clause of 2.6.1 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 2.6.1 is to be preferred to another of those relatives.

- 2.16. **Privacy:** The fundamental right of the individual to control the collection, use and disclosure of their personal health information.
- 2.17. **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 an 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.
- 2.18. **Representative:** In relation to an individual, means persons permitted to exercise the rights of an individual.
- 2.19. **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 government agency, etc are not considered trustees; however as employees of these facilities, occupational trustees must comply with the PHIA.
- 2.20. **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.

3. **POLICY:**

- 3.1. A trustee authorized to use personal health information must limit use to the minimum amount of information necessary to accomplish the purpose for which it is used. [Section 20\(2\)](#)
- 3.2. A trustee shall limit the use of personal health information to those persons associated with the trustee who need to know the information to carry out the purpose for which the information was collected or received. [Section 20\(3\)](#)
- 3.3. Before using personal health information, reasonable steps must be taken to ensure the information is accurate, up to date, complete and not misleading. [Section 16](#)

- 3.4. Personal health information may only be used for the purpose for which it was collected or received, and shall not be used for any other purpose unless: [Section 21](#)
- 3.4.1. the other purpose is directly related to the purpose for which the information was collected or received; or
- 3.4.2. the individual the personal health information is about has consented to the use; or
- 3.4.3. Use of the information is necessary to prevent or lessen a serious and immediate threat to:
- the health or safety of the individual the information is about or another individual; or
 - public health or public safety; or
- 3.4.4. the information is demographic information about an individual, or is his or her PHIN, and is used to:
- confirm eligibility for health care or payment for health care; or
 - verify the accuracy of the demographic information or PHIN; or
- 3.4.5. the information is demographic information about an individual and is used to collect a debt the individual owes to the trustee; or
- 3.4.6. to deliver, monitor or evaluate a program that relates to the provision of health care or payment for health care by the trustee; or
- 3.4.7. for research and/or planning that relates to the provision of health care or payment for health care by the trustee; or
- 3.4.8. if it is used for the same purpose for which it was disclosed to the trustee; or
- 3.4.9. if use of the information is authorized by an enactment of Manitoba or Canada.
- 3.5. Personal health information cannot be used unless the intended use is authorized under PHIA or with the consent of the individual.
4. **PROCEDURE:** N/A
5. **REFERENCES:**
- 5.1. *The Personal Health Information Act.*
- 5.2. *The Personal Health Information Regulation.*

Use of Personal Health Information Policy - Guidelines

The standard operating procedure for using personal health information at this company is:

1. Use of personal health information is limited to the minimum amount of information necessary to accomplish the purpose for which it is used.
2. Use of personal health information is limited to only those persons who need to know the information to carry out the purpose for which the information was collected or received.
3. Before using personal health information, reasonable steps are to be taken to ensure the information is accurate, up to date, complete and not misleading.
4. Personal health information is used for the purpose for which it was collected or received, and not used for any other purpose unless authorized by PHIA.
5. Personal health information is not used unless the intended use is authorized under PHIA or with the consent of the disclosure.

For further clarification on any point, please refer to the full policy.