

PRINCE ALBERT PARKLAND HEALTH REGION
<Department Name>

SECTION:		NUMBER:
TOPIC:	Collection and Disclosure of Personal Health Information to Support the Provision of Care	DATE APPROVED:
APPROVED BY:		REVIEW DATE:
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1. General Policy Statement

Collection, use and disclosure of personal health information may occur by and within the care team or group of health care providers that must collect, use or disclose personal health information in order to provide, arrange, assess the need for or support the provision of care to an individual (as per section 27(2) of HIPA). The members of this team/group make up the Circle of Care for an Individual, and commonly include:

- (a) trustees such as physicians and other health care professionals;
- (b) employees and contractors of trustees such as staff of Health Regions and long term care facilities; and
- (c) non-trustees in limited circumstances (e.g. social workers).

Examples of collection, use or disclosure within the Circle of Care include:

- (a) sharing of Personal Health Information between two health care providers within a Health Region on a need-to-know basis to support or provide care; or
- (b) sharing of Personal Health Information by a health care provider in one Health Region with a health care provider in another Health Region on a need-to-know basis to support or provide care.

Any collection, use or disclosure of Personal Health Information within the Circle of Care must occur on a need-to-know basis (see section 23 of HIPA).

2. Scope/Purpose

The purpose of this policy is to address collection, use and disclosure of Personal Health Information for the provision of health services requested or required by an Individual.

3. Legislative/Regulatory Authority

Sections 23, 24, 26(2) and 27(2) of *The Health Information Protection Act* (Saskatchewan) (“HIPA”).

4. Definitions

4.1 Personal Health Information

A term defined in section 2(m) of HIPA as, with respect to an individual, whether living or deceased:

- (a) information with respect to the physical or mental health of the individual;
- (b) information with respect to any health service provided to the individual;
- (c) information with respect to the donation by the individual of any body part or any bodily substance of the individual or information derived from the testing or examination of a body part or bodily substance of the individual;
- (d) information that is collected:
 - (i) in the course of providing health services to the individual; or
 - (ii) incidentally to the provision of health services to the individual; or
- (e) registration information.

4.2 Trustee

One of a group of individuals or organizations identified in section 2(t) of HIPA as the bodies to which HIPA applies. An individual or organization is a trustee of personal health information if the individual or organization has custody and control of that personal health information.

4.3 Consent

Agreement by an individual to permit the collection, use or disclosure of their personal health information to a trustee or non-trustee. Sections 5-7 of HIPA provide further detail regarding the provision of consent by an individual. Three types of consent are relevant to the use and disclosure of personal health information:

- (a) Deemed Consent: a consent that is deemed by law to exist for certain purposes specified by law. For example, pursuant to section 26(2) and 27(2) of HIPA, an individual is deemed to consent to the collection, use and disclosure of his or her personal health information in order to provide, arrange, assess the need for or support the provision of care to the individual.
- (b) Express Consent: a 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.

- (c) Implied Consent: a consent inferred through an individual's actions. Implied consent may be given only when an individual has been informed about potential collection, use and disclosure of his or her personal health information. For example, if an individual is presented with sufficient information regarding the proposed collection, use or disclosure of his or her personal health information for a given purpose and that individual continues to provide the information, the individual has provided an implied consent to such collection, use and disclosure. Implied consent usually includes the ability to reasonably opt-out of or revoke consent.

5. Detailed Policy

5.1. Collection, Use and Disclosure to Provide Care

Personal Health Information may be collected, used or disclosed as required to support or provide a health service **required or requested** by the Individual. Where collection, use or disclosure of Personal Health Information is needed for this purpose, Express or Implied Consent of the Individual to this collection, use or disclosure is not required (i.e. consent is deemed by law to exist to the collection, use or disclosure of information for these purposes – see definition of “Deemed Consent” in the Glossary). However, health care providers are not precluded from seeking Express or Implied Consent for health services in circumstances where it is reasonable to do so.

Collection, use or disclosure of personal health information within the Circle of Care is not without restriction. Collection, use and disclosure must only be by or to those who need to know the information in order to:

- arrange for a service;
- assess the need for a service;
- provide a service;
- continue provision of a service;
- support the provision of a service.

Personal Health Information must be collected directly from the Individual unless:

- (a) the Individual consents to another method of collection;
- (b) the Individual is unable to provide the information;
- (c) the trustee has reasonable grounds to believe that collection directly from the Individual would prejudice the mental or physical health or safety of the Individual or another person;
- (d) the information is collected as a necessary part of determining and verifying the eligibility of the Individual for participation in a program of the trustee or to receive a product or service from the trustee;

- (e) the information is publicly available; or
- (f) the trustee collects the information by disclosure from another trustee pursuant to sections 27, 28 or 29 of HIPA.

Any collection of personal health information must occur for the benefit of the Individual.

The rules governing use or disclosure of personal health information within the Circle of Care are the same for both use and disclosure.

Additional care must be taken when disclosing personal health information to non-trustees to ensure that:

- (a) reasonable steps have been taken to verify the non-trustee's identity;
- (b) the non-trustee is advised that the personal health information must be maintained in strict confidence and may only be used to provide or support health services; and
- (c) the non-trustee complies with HIPA and relevant privacy obligations and safeguards (e.g. confidentiality pledges or agreements, memorandums of understanding, etc.).

Note: A Circle of Care will be specific for each Individual. A non-trustee may be included as part of the Circle of Care if the non-trustee has a need to know the personal health information for one of the five purposes described above. Appropriate confidentiality agreements should be put in place between the non-trustee and the Health Region.

5.2. Need to Know

Personal health information of an Individual may only be collected, used or disclosed on a need-to-know basis for a purpose described in 5.1 of this policy (see section 27(2) of HIPA). In other words, unless otherwise authorized under HIPA or by the Individual, health care providers must not collect, use or disclose personal health information for any purpose that does not relate to the provision or support of care of an Individual pursuant to a specific care episode. For example, personal health information shall not be collected, used or disclosed for personal reasons, or for gain or gossip (*see section 23(1) of HIPA*).

5.3. Teaching Within the Health Region

The Health Region has a responsibility to create a teaching and learning environment for students. Accordingly, students may collect, use or disclose Personal Health Information to the extent authorized under this policy (i.e. if they are part of an Individual's Circle of Care). All students should receive training regarding their obligations under HIPA and applicable Health Region policies.

5.4. Conditions

Collection, use or disclosure pursuant to this policy is subject to two very important conditions:

- (a) The collection, use or disclosure must be made in accordance with the Health Region's privacy and security policies and procedures (for example, extra care must be taken when discussing Personal Health Information in public areas); and
- (b) The collection, use or disclosure must be made in accordance with applicable ethical guidelines.

6. Authority – Enforcement/Updating

If a health care provider or employee of the Health Region knowingly violates this policy, he or she may be subject to sanction under applicable law and may face disciplinary proceedings, termination of their relationship with the Health Region or claims for damages, as applicable.