

North York General Policy Manual

DISCLOSURE OF PERSONAL HEALTH INFORMATION

NUMBER: V-65

CROSS REFERENCE: Privacy & Data Protection V-25
Hospital Media VIII-30;
Fundraising VIII-20

ORIGINATOR: Chief Privacy & FOI Officer

APPROVED BY: Medical Advisory Committee
Operations Committee

ORIGINAL DATE APPROVED: February 2008
DATE REVIEWED/REVISED: October 2013
DATE OF IMPLEMENTATION: November 2013

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GUIDING PRINCIPLES:

North York General Hospital respects individual's right to privacy, and their right to access and to correction of records containing their own personal health information in accordance with the *Personal Health Information Protection Act (PHIPA)*.

A cornerstone of North York General Hospital's compliance program is adherence to the spirit and intent of the following 10 principles which form the basis for health information privacy legislation:

- | | |
|---|----------------------------|
| 1. Accountability | 6. Accuracy |
| 2. Identifying Purpose | 7. Safeguards |
| 3. Consent | 8. Openness |
| 4. Limiting Collection | 9. Individual Access |
| 5. Limiting Use, Disclosure and Retention | 10. Challenging Compliance |

This disclosure policy applies to personal health information held by North York General Hospital in any form or medium including written, printed or electronic form but does not include a computer program or other software.

Application of the policy will be guided by the Hospital's patient and family centred approach which recognizes the importance of families in the provision of health care.

POLICY:

1. North York General Hospital (NYGH) only discloses personal health information with the consent of the individual to whom the information relates, where necessary for lawful purposes or as required or permitted by law.

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2. Information disclosed for lawful purposes or as required or permitted by law will be limited to that necessary to fulfill those purposes.
3. Where the disclosure decision is discretionary, priority will be given to protecting the security of patients and their families.

A: DISCLOSURE OF PATIENT AND GENERAL CONDITION INFORMATION

This procedure applies to all admissions to the Hospital including attendance at Emergency Services and responds to s.12 (1), s.18 (1)(5)(6) s.29 and s.38 (3) of PHIPA and principles of “Accountability”, “Consent”, “Limiting Disclosure” and “Safeguards.”

1. The Hospital’s website notifies patients that their personal health information will be disclosed to provide general health status information to family members and to redirect and assist their visitors unless the patient does not consent. No information may be disclosed if the patient or their substitute decision maker objects.
2. At the first reasonable opportunity following admission, the patient or their substitute decision maker will be asked by a nurse whether NYGH may confirm that the individual is a patient and may provide their location and information as to their health condition in general terms such as “stable or satisfactory, fair, poor or critical.” The response should be recorded on the patient chart. No information will be disclosed if the patient or their substitute decision maker objects.
3. The patient or their substitute decision maker will be asked to appoint one person who may receive health condition information and to whom callers may be referred if the patient is unable to accept telephone calls. The appointed person’s name should be recorded on the patient chart.
4. Where the patient has not objected to disclosure but there has not been a reasonable opportunity to directly ask the patient for consent, NYGH will confirm that an individual is a patient, provide their location and disclose their general health condition if the following conditions are met:
 - a) the visitor or caller provides the name of the patient, and
 - b) gives their own name and relationship to the patient and is family or a friend
 - c) at the first reasonable opportunity, the patient or their substitute decision maker will be asked to consent or object to disclosure.

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5. Staff or physicians who call to ask about a patient may be provided health condition information if they are providing care to the patient or if the patient expressly consents.
6. To protect against unauthorized collection, use and disclosure of their personal information, there will be no photographing , audio or videotaping of patients, visitors, staff, physicians or volunteers without the express consent of the respective individuals and only if no disruption will be caused to the provision of care.
 - 6.1 Where consent has not been obtained, individuals will be asked to immediately stop and to delete the recorded images, audio or video footage. Security will be called if the individual refuses to comply with these requests, and the individual may be escorted from the premises.

B: DISCLOSURE TO THE MEDIA

This procedure applies to all media requests for personal health information including requests to film or photograph on Hospital premises and responds to principles of “Accountability” and “Safeguards”.

1. All media requests must be directed to Corporate Communications at 416-756- 6127. A Corporate Communications staff member is available on a 24-hour basis through Locating at extension 6002.
2. In cases where there is any uncertainty related to the media, Corporate Communications should be contacted at the above noted telephone number or through extension 6002.

C: DISCLOSURE TO LOCATE FAMILY, TO LAW ENFORCEMENT

The procedure responds to s.18(3)(a), s.(38)(1)(c) and s.43(1)(g) of PHIPA and principles of “Accountability”, “ Consent ”, “Limiting Disclosure” and “Safeguards”.

1. If a patient is injured, incapacitated, or ill and unable to give consent, NYGH will disclose sufficient personal health information to permit contacting a relative, friend or potential substitute decision maker of the patient.

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2. Personal health information will be disclosed to comply with a warrant or a subpoena to appear in Court or with the express consent of the individual to whom the information relates.

D: DISCLOSURE TO REDUCE, ELIMINATE RISK

The procedure places a priority on the security of patients and families as permitted under s.40 (1) and s.43 (1)(h) of PHIPA and consistent with principles of “Accountability” and “Limiting Disclosure”.

1. NYGH may disclose personal health information to reduce or eliminate a significant risk of harm to a patient and/or other persons if there are reasonable grounds to believe that disclosure is warranted.
 - 1.1. The information will only be disclosed to the appropriate person and/or body and will be limited to that necessary to reduce or eliminate the harm.
2. Where an Act of Ontario or Canada requires disclosure, NYGH will provide the personal health information in accordance with the applicable statute. Statutes requiring disclosure of information include:
 - *Aeronautics Act*
 - *Ambulance Act*
 - *Coroner’s Act*
 - *Child & Family Services Act*
 - *Drug and Pharmacies Regulation Act*
 - *Drug Interchangeability and Dispensing Fee Act*
 - *Health Care Consent Act*
 - *Health Protection & Promotion Act*
 - *Highway Traffic Act*
 - *Mandatory Gunshot Wounds Reporting Act*
 - *Personal Health Information Protection Act*
 - *Public Hospital’s Act*
 - *Regulated Health Professions Act*
 - *Substitute Decisions Act*
 - *Vital Statistics Act*
 - *Workplace Safety and Insurance Act*
- 2.1 The information disclosed will be limited to that which is necessary to comply with the applicable statute.

E: DISCLOSURE FOR FUNDRAISING PURPOSES

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NYGH provides contact information to its Foundation for fundraising purposes and to provide information on special projects as permitted under s.32 (1) (b) (2) of PHIPA and s. 10 of O. Reg. 329/04 and in accordance with principles of “Consent” and “Limiting Use, Disclosure”.

1. The patient’s name and mailing address will be provided to the Foundation but will not be used until at least 60 days after receiving care.
2. Discretion and sensitivity will be exercised in providing contact information.
3. Individuals who do not wish to receive Foundation communications may have their names removed from the mailing list by calling 416-756-6944.

Please Note: Any questions about interpretation and application of the Policy and Procedures “A” to “E” should be directed to the Chief Privacy Officer at 416-756-6448 or privacy@nygh.on.ca.

F: INDIVIDUAL’S ACCESS TO PERSONAL HEALTH INFORMATION

The access procedure responds to the requirements of s.16 (1)(c) and sections 52 to 55 of PHIPA and principles of “Accountability”, and “Individual Access”.

It does not apply to quality of care information, information collected or created for the purpose of the hospital’s quality assurance program, research information or to raw data from standardized tests. That information is exempt from the disclosure requirements of PHIPA.

AUTHORIZED PERSONS

The following individuals will be granted access to personal health information records subject to the exemptions set out in s.52 of PHIPA.

- a) The individual to whom the information relates;
- b) An individual’s substitute decision maker;
- c) A third party such as the individual’s solicitor or insurer upon provision of a signed authorization from the individual to whom the personal information relates or their substitute decision maker;
- d) A decision maker for an incapable patient;
- e) A deceased patient’s estate trustee or estate administrator;
- f) A deceased patient’s spouse, partner, sibling or child if the information is reasonably required to make a decision about their own health care or their children’s care;

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- g) A parent who has lawful custody of a child;
- h) A Children's Aid Society that has lawful custody of a child.

Please refer to Appendix "A" for further information on who is entitled to access on behalf of an incapable patient, and limitations on disclosure of health records relating to a child.

ACCESS PROCEDURE

1. A patient in the hospital, their substitute decision maker or authorized person may arrange to see the patient's personal health records during the patient's stay by speaking to nursing staff or their physician.
2. Following discharge, the official point of contact for access requests is North York General Hospital, Release of Information, 4001 Leslie St., Toronto, Ontario, M2K 1E1, telephone 416-756-6209, fax number 416-756-6705, or by email at patientrecords@nygh.on.ca.
3. For convenience, a release of information request form is available from the NYGH website for completion. To access the form go to www.nygh.on.ca and look under the "Patients & Visitors" tab for "Your Health Information".
4. Release of Information staff will offer assistance in completing a request if it does not contain sufficient information to identify and locate the records.
5. Requests will be responded to within 30 days unless an extension is warranted. The requester will be notified within 30 days if it is necessary to extend the response time from 30 days up to 60 days. The time may be extended if a large number of records are involved, an extensive search is required or it is necessary to consult before responding.
6. Where the information is needed on an urgent basis in less than 30 days, the requester should provide sufficient information to permit determining whether an expedited process is warranted and whether it may reasonably be provided.
7. Access will be provided unless the record or portions of the record fall within one of the exemptions set out in s.52 of PHIPA or the record does not exist or cannot be found.
8. The requester will be notified of the access decision in writing and, if access is refused in whole or in part, that a complaint may be made within six months to the Information & Privacy Commissioner/Ontario, 2 Bloor Street East, Suite 1400, Toronto Ontario M4W 1A8.

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9. The fee for making the records available must be paid before access is given. Please refer to the fee schedule following Appendix “A”.
10. Identification must be provided to ensure that personal health information is only disclosed to the individual to whom the information relates or to their substitute decision maker or authorized person.

G: CORRECTION PROCEDURE

The correction procedure responds to s. 11 (1) (2), s.15 (3) (d) and s.55. of PHIPA and principles of “Accuracy” and “Challenging Compliance”.

1. A patient in the hospital or their substitute decision maker may make an oral request for correction of a personal health record by speaking to nursing staff or their physician.
2. Following discharge, the official point of contact for correction requests is North York General Hospital, Release of Information, 4001 Leslie St., Toronto, Ontario, M2K 1E1, telephone 416-756-6209, fax number 416-756-6705 or by email at patientrecords@nygh.on.ca.
3. An individual or their substitute decision maker may request correction where access has been granted to personal health information and the individual believes the record to be inaccurate or incomplete for the purposes for which it was collected.
4. All correction requests must be in writing and include sufficient information to verify that the requester is the individual to whom the personal health information relates or their substitute decision maker, and to make a decision as to whether to amend the personal health record.
5. Correction requests will be responded to within 30 days unless an extension is warranted. The requester will be notified within 30 days if it is necessary to extend the response time from 30 days up to 60 days. The time may be extended if responding sooner would unreasonably interfere with Hospital activities or where necessary consultations cannot be completed within 30 days.
6. The decision on whether to amend the record will be made by a person who has the knowledge, expertise and authority to validate and make any necessary correction, normally the author of the information or other medical staff.

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7. Corrections will include the name of the person who made the correction and the date.
8. Incorrect information will be identified as such and maintained. Where the incorrect information is stored separately, the corrected record will include a note or link to ensure the incorrect information may be located if required.
9. The requester will be notified in writing if the correction request is being granted including the steps taken to correct the record.
10. If the correction may affect the plan of care, notice of the correction will be given to the health care providers.
11. If the request for correction is denied, reasons will be given including that the requester is entitled to:
 - a) prepare a concise statement of disagreement setting out the requested correction;
 - b) require it be attached to the record the individual believes is incorrect;
 - c) require the statement of disagreement be included whenever the information to which the statement relates is disclosed;
 - d) request that reasonable efforts be made to disclose the statement of disagreement to individuals who would have been notified if the requested correction had been made;
 - e) complain to the Information & Privacy Commissioner/Ontario, 2 Bloor Street East, Suite 1400, Toronto Ontario M4W 1A8
12. **Please note:** Any questions about interpretation or application of Procedures “F” and “G” should be directed to North York General Hospital, Release of Information, 4001 Leslie St., Toronto, Ontario, M2K 1E1, telephone 416-756-6209, fax number 416-756-6705 or by email at patientrecords@nygh.on.ca.

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Appendix “A”

DECISION-MAKER FOR THE INCAPABLE PATIENT

An incapable patient’s substitute decision-maker under the *Health Care Consent Act* may make decisions on disclosure of the patient’s personal health information. If a patient does not have a substitute decision-maker, the PHIPA provides a ranked list of persons who may provide consent to disclosure.

In order of priority, the following persons may provide consent:

- a) The individual’s guardian of the person or guardian of property, if the consent relates to the guardian’s authority to make a decision on behalf of the patients.
- b) The individual’s attorney for personal care or attorney for property, if the consent relates to the attorney’s authority to make a decision on behalf of the patient.
- c) The individual’s representative as appointed by the Consent and Capacity Board. The representative can either be appointed on the application of the incapable patient or on the application of the person wishing to become a representative.
- d) The individual’s spouse or partner. “Spouse” is defined to mean either of two persons who, (a) are married to each other, or (b) live together in a conjugal relationship outside marriage and (i) have cohabited for at least one year, (ii) are together the parents of a child, or (iii) have together entered into a cohabitation agreement under section 53 of the *Family Law Act*. “Partner” means “either of two persons who have lived together for at least one year and have a close personal relationship that is of primary importance in both persons’ lives.”
- e) A child or parent of the individual, a children’s aid society or other person who is lawfully entitled to give or refuse consent in the place of the parent. This category does not include a parent with only a right of access. If a children’s aid society or other person is lawfully entitled to consent in the place of the parent, the parent may not give, withhold, or withdraw consent on the patient’s behalf.
- f) A parent of the individual with only a right of access to the individual
- g) A brother or sister of the individual
- h) Any other relative of the individual

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i) The Public Guardian and Trustee

DECISION-MAKER FOR A CAPABLE CHILD UNDER SIXTEEN

PHIPA does not specify an “age of consent” in relation to the collection, use and disclosure of personal information. Generally, if the child is less than 16 years of age, a parent of the child or a children’s aid society or other person who is lawfully entitled to give or refuse consent may consent. However, if a child is less than 16 and has the capacity to give, withhold or withdraw consent, the child’s consent may also be requested before disclosing the record.

Exception: A parent, children’s aid society, or other person lawfully entitled to give or refuse consent in place of the parent of a child under 16 may not exercise this power where the information relates to treatment about which the child has made a decision on his or her own behalf under the *Health Care Consent Act* or where the information relates to counseling in which the child has participated on his or her own under the *Child and Family Services Act*.

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RELEASE OF INFORMATION FEE SCHEDULE

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| THIRD PARTY REQUESTS & PATIENT REQUESTS (Fees include copies of the first twenty pages, \$0.25 per page thereafter; exception - \$0.50 per page for microfilm). | |
| Insurance Companies | \$195.00 |
| Law Firms | \$30.00 |
| Community Legal Services | \$30.00 |
| Rehabilitation Consultants | \$195.00 |
| Criminal Injuries Compensation Board | \$195.00 |
| All Other Third Party Requests | \$195.00 |
| MISCELLANEOUS REQUESTS | |
| College of Physicians and Surgeons | \$0.25/page |
| College of Nurses | \$0.25/page |
| WSIB/WSIB Appeals Tribunal | \$48.15 |
| Summons to Witness | \$100.00 |
| RESEARCH FEES | |
| Administration Fee | \$100 |
| Preparation of Specialized Reports | \$100 |
| Training to Access Online Charts (up to 2 hrs.) | \$100 |
| Produce Chart for Review – Paper Records | \$3.00/Chart |
| Produce Chart for Review - Microfilm | \$6.00/Chart |
| For Copy of Record | \$1.00/Page |
| PATIENT REQUESTS | |
| Patient Request for Copy of Record | \$30.00 for first twenty pages, then \$0.25/page |
| Patient Request to Review Record | \$30.00 (fifteen minutes) |
| Date of Birth/Death/Admission Verification | \$55.00 |
| Blood Type | \$55.00 |
| Time of Birth, Birth Weight, Length, Etc. | \$100.00 |
| URGENT NON-MEDICAL REQUESTS | |
| Request Processed Within 72 Hours | Additional \$195.00 |