

North York General Hospital Policy Manual

PRIVACY & DATA PROTECTION

NUMBER: V-25

CROSS REFERENCE: DISCLOSURE OF PERSONAL HEALTH INFORMATION V65

MOBILE DEVICES, REMOVABLE MEDIA & PERSONAL HEALTH INFORMATION SECURITY V75

POLICE INVESTIGATIONS/WORKING WITH POLICE

PATIENT HEALTH RECORD CONTROL V70

RECORD RETENTION & DESTRUCTION V50

ORIGINATOR: Chief Privacy & Freedom of Information Officer

APPROVED BY: Medical Advisory Committee
Operations Committee

ORIGINAL DATE APPROVED: February 2008

LAST DATE REVIEWED/REVISED: October 2019

IMPLEMENTATION DATE: November 2019

GUIDING PRINCIPLES:

North York General Hospital (NYGH) respects privacy as a fundamental human right that is central to the dignity of the individual.

Our practices are guided by the ethical principles of professional codes of practice and laws that apply to personal health information and personal information including the *Personal Health Information Protection Act, 2004* (PHIPA) and the *Freedom of Information & Protection of Privacy Act* (FIPPA).

A “privacy by design” approach must be taken that integrates privacy and data protection into the design and delivery of programs, services and technology initiatives. This includes establishing accountabilities, controls and processes and actively fostering a privacy and data protection culture.

NYGH is committed to integrity in making decisions involving personal and personal health information (PHI) and to vigilance in identifying and addressing risks. People, processes and technology must be strategically aligned to ensure the privacy, confidentiality, security, integrity and availability of information assets and systems. All references to the protection of personal health information (PHI) include personal information.

SCOPE:

This policy applies to:

- All NYGH sites
- Credentialed staff, employees whether contract or permanent, consultants, volunteers and students
- PHI held by or in the control of NYGH
- All systems that store or transmit PHI, and back up sites
- All programs, services, contracts and agreements involving PHI

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DEFINITIONS

- (1) **Personal health information** means oral or recorded information about an identifiable individual that relates to:
 - a) their physical or mental health including the family health history;
 - b) provision of health care to the individual including identifying a person as the individual's health care provider;
 - c) is a plan of service for the individual within the meaning the Long-Term Care Act, 1994;
 - d) payments or eligibility for health care in respect of the individual;
 - e) an individual's donation of any bodily part or bodily substance or is derived from testing a body part or substance;
 - f) is the individual's health number
 - g) identifies an individual's substitute decision maker
- (2) In this section, "identifying information" means information that identifies an individual or for which it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other information, to identify an individual
- (3) Personal health information includes identifying information that is not personal health information described in subsection (1) but that is contained in a record that contains personal health information described in that subsection.

Personal information means recorded information about an identifiable individual, including,

- (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
- (b) information relating to the education or the medical, psychiatric, psychological, 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, telephone number, fingerprints or blood type of the individual,
- (e) the personal opinions or views of the individual except where they relate to another individual,
- (f) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence,
- (g) the views or opinions of another individual about the individual, and
- (h) the individual's name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual

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POLICY:

1. Privacy, confidentiality and security measures are incorporated in the design and delivery of programs, services and technology initiatives to achieve compliance with legal and regulatory requirements.
2. Information systems and security strategies are leveraged to provide consistent, effective data protection and build public trust in NYGH's management of PHI and information assets.
3. Contracts and agreements involving PHI incorporate articles setting out the authority for the activity, the data fields to be collected, used and/or disclosed and effective measures to protect the privacy, confidentiality and security of the information.
4. Personal identifiers may be removed and the remaining information disclosed in statistical or aggregated form where the information will not identify an individual or enable re-identification.
5. Credentialed staff, employees, whether contract or permanent, volunteers, consultants, students and service providers are accountable for unauthorized or inappropriate access to, use of, disclosure, modification or disposal of personal health information.
6. Any person who contravenes this policy is subject to sanctions up to and including dismissal, contract termination or termination of hospital privileges.

Privacy & Data Protection Principles and Practices

1. Accountability

NYGH is accountable for collecting and managing personal and personal health information (PHI) in our custody or under our control in accordance with the spirit and intent of PHIPA and FIPPA. Vice Presidents are ultimately accountable for compliance with this policy within their respective portfolios and for taking corrective measures as necessary.

Compliance with PHIPA and FIPPA is facilitated by our Chief Privacy Officer (CPO) who develops privacy policies and provides training and direction in the practical application of privacy laws to collection, use, disclosure and protection of PHI. The CPO is the official point of contact for complaints and inquiries related to compliance with PHIPA and FIPPA.

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Anyone who has a question about our practices or who believes their privacy has been invaded should contact the CPO at (416) 746-6448 or www.privacy@nygh.on.ca. The mailing address is North York General Hospital, 4001 Leslie Street, Toronto, Ontario M2K 1E1, Attention: Chief Privacy Officer.

2. **Identifying Purposes:**

The purposes for collecting personal and personal health information are identified before or at the time of collection. Our purposes directly relate to the effective provision of health care. Permitted purposes under PHIPA include provision of care or assisting in the provision of care, program and service delivery, related administration and compliance with statutory requirements. Those who collect information on NYGH's behalf will respond to questions about collection purposes in a timely way.

3. **Consent:**

We obtain consent for collection, use and disclosure of personal health information unless this or another Act permits these activities without consent. For example, in emergency situations it may not be possible to obtain consent. In such case, we do what is necessary to treat and care for the individual and to facilitate contact with family/friends or a substitute decision maker.

Consent, whether express or implied, must be knowledgeable and relate to the information. For consent to be knowledgeable, identified purposes must include the information most people would want to know. This is to ensure that an individual would reasonably expect the collection, use or disclosure. A public notice summarizing our practices is prominently displayed in all hospital sites and on the hospital's website.

4. **Withdrawal of Consent:**

Individuals are informed that they may identify certain health information and withdraw consent. Potential health implications are explained if consent is withdrawn. NYGH respects an individual's withdrawal of consent directive unless this or another Act permits or requires otherwise.

Personal and personal health information is collected and recorded where required by law and/or established standards of professional and hospital practice. Legal, professional and hospital practice obligations prevail over an individual's withdrawal of consent. An individual's refusal or withdrawal of consent will not apply where disclosure is necessary to reduce or eliminate a significant risk of bodily harm to an individual or group.

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5. **Limiting Collection:**

NYGH collects personal and personal health information only for lawfully authorized purposes. The collection is limited to that necessary to provide care, to assist in the provision of care and to properly carry out related administrative and reporting obligations. We will not collect personal health information if other information will serve the collection purpose.

Information is only collected fairly and lawfully. This means that individuals are never deceived or coerced in order to obtain consent for collection, use or disclosure of their information.

Individuals remain anonymous when they visit the NYGH website unless they choose to provide their information to obtain a service. Visitors to the website are informed of our collection practices through a Website Privacy Statement.

6. **Limiting Use:**

PHI is used by the health care team to provide health care, to assist in the provision of care and as permitted or required under this or another Act. The health care team is composed of primary care, attending and consulting physicians, residents, nurses, technicians, spiritual care and support staff who are directly involved in an individual's care or treatment. The health care team uses and shares information with team members on a "need to know" basis.

We use the information for planning and delivering patient care programs and services and to evaluate their effectiveness. Uses include educational purposes, risk and incident management, research and activities to improve or maintain the quality of care. Approval is required from the hospital's own or Clinical Trials Ontario certified Research Ethics Board before any research study involving human participants or their PHI is permitted to proceed. Proposed studies must meet high scientific, ethical, privacy and data protection standards before approval is given.

After an individual leaves the hospital, their name, address and visit date may be used to send a survey asking for their opinion on the care received. An individual may have their name removed from the survey list by calling Registration at 416-756-6200.

A former patient, a parent or guardian may be contacted to make a donation to the hospital. Only names and addresses are used for fundraising purposes. No health information is used. Donations to the NYGH Foundation help ensure continued provision of the best possible health care by funding patient care programs, equipment,

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research and education. Individuals may have their name removed from the fundraising mailing list by contacting the Foundation at 416-756-6994. The care individuals receive will not be affected if they decide not to make a donation.

7. **Limiting Disclosure:**

PHI is disclosed as necessary for the purpose for which it is collected, with consent and as required or permitted by law. This includes disclosure to meet statutory reporting obligations and to provide for continuity and integration of care. This means that acute, primary, community/support services and long term care providers have access to the PHI they need to support the patient throughout their care journey. Disclosure is permitted or required to the following:

- The individual, their legal guardian or substitute decision-maker;
- To care providers to determine suitability for transfer to another facility and to provide for ongoing care;
- To care providers to improve/maintain the quality of care and of those provided similar care;
- Registries and entities prescribed in regulation such as Cancer Care Ontario, the Cardiac Care Network, Canadian Stroke Network, INSCYTE, Pediatric Oncology Group of Ontario, the Institute for Clinical Evaluation Services, the Canadian Institute for Health Information, Children's Hospital of Eastern Ontario, Ontario Institute for Health Research and health regulatory agencies
- Health Information Networks such as the Electronic Child Health Network (eCHN); Hospital Diagnostic Imaging Repository Services (HDIRS), Ontario Laboratory Information System (OLIS), Integrated Assessment Record (IAR), Connecting Ontario (cON) and Health Partner Gateway (HPG).
- Ministry of Health e-health projects such as the Enterprise Master Patient Index, the Wait Time Information System and the Diabetes Testing Report;
- Researchers whose proposals have been approved by the Research Ethics Board of NYGH or authorized Board of Review such as the Ontario Cancer Research Ethics Board or Clinical Trials Ontario certified Research Ethics Boards;
- The Medical Officer of Health to report communicable diseases;
- The Workplace Safety Insurance Board;

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- Law enforcement officers who present a warrant or subpoena, or to aid in an investigation from which a law enforcement proceeding is likely to result;
 - The Children's Aid Society if child abuse is suspected;
 - The Children's Lawyer;
 - The Public Guardian and Trustee;
 - the Coroner.

NYGH may disclose aggregate or statistical information that has been de-identified so it does not contain any information that either alone or with other information could identify an individual. This anonymous data may be disclosed for research purposes, for activities to improve the quality of care or to evaluate our services.

8. **Record Retention:**

All records in the custody or under the control of North York General Hospital (NYGH) will be managed, retained and securely disposed of in accordance with applicable federal and provincial statutes and NYGH policies.

9. **Information Accuracy:**

All reasonable steps are taken to ensure that personal and health information is as accurate, complete and up-to-date as is necessary for the purposes for which it is collected. For instance, if a patient has previously been admitted, we will ask them to confirm their registration information to ensure it is still correct. We inform recipients of any limitations on the accuracy, completeness and up-to-date character of personal health information.

10. **Data Protection Safeguards:**

NYGH has in place effective physical, technical and administrative safeguards to protect information from theft or loss, unauthorized access, use or disclosure, copying, modification or disposal. A comprehensive suite of data protection standards and practices preserves the confidentiality, integrity and availability of information assets and systems. We utilize "privacy by design" principles to build privacy and data protection into systems and operations including:

- identifying and mitigating privacy and data protection risks
- network firewalls, intrusion detection
- anti-virus and anti-spyware software
- robust patch management

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- role based access controls and access logs
 - audits of system and patient chart access
 - strong passwords mandatory and system-initiated change password protocols
 - two-factor authentication
 - encryption technology and data transmission security
 - rigorous change management processes
 - modern technology for physical and environmental security
 - backup and recovery systems
 - locked filing cabinets
 - secure records destruction
 - personal accountability
 - annual privacy and data protection training
 - 24 hour Security Officers

Credentialed staff, employees, whether contract or permanent, volunteers, and students all sign confidentiality agreements annually and wear photo identification. Agreements with vendors, service providers and contractors include terms requiring confidentiality and information security. When we enter into partnerships with other hospitals or health care organizations to improve services, such as to reduce wait times between diagnosis and treatment, the agreements provide for effective protection of personal health information.

Protections for paper and electronic records are regularly reviewed and updated as necessary. Privacy enhancing technologies are implemented where feasible.

11. **Openness:**

NYGH is open about our privacy, data protection and information management policies and practices. The exception is that detailed information about data protection is not made available where it could be used to compromise the security of technology systems and/or personal health information.

Individuals are provided meaningful information about our practices through a combination of public notices including our website, publicly available policies and brochures, registration forms and oral communication. Large notices summarizing our collection, use and disclosure practices are prominently posted in all hospital sites.

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12. **Individual's Right of Access, Right to Correction**

Individuals have a right of access to a record of their own personal health information that is in the custody or control of NYGH unless a provision of PHIPA provides otherwise. In-patients may arrange to see their chart by speaking to a nurse or their physician. Before providing access to the chart of a mental health patient, nurses must consult the individual's physician to ensure that information that may cause harm is not disclosed. At all times, care must be taken to ensure the security of the record. Access will be provided when it will not cause a disruption to patient care.

After discharge, the Release of Information Department is responsible for responding to requests for health records. Information about how to make a request and a request form to complete is available on our website.

Individuals have a right to request correction of their information if they believe it to be inaccurate. If an individual is a patient in the hospital, information may be corrected by speaking to a nurse or their physician. 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 information author or credentialed staff.

If a correction is made that could affect a patient's health care, those providing care will be notified. Where a requested correction has not been made, the individual has the right to require that a statement of disagreement be attached to the record.

Following discharge, correction requests may be made to the Release of Information Department.

13. **Challenging Compliance:**

If any person has a question, concern or complaint about NYGH compliance with privacy and data protection obligations under PHIPA, please contact our Chief Privacy Officer at (416) 756-6448, email privacy@nygh.on.ca, or write to North York General Hospital, 4001 Leslie Street, Toronto, Ontario M2K 1E1, Attention: Chief Privacy Officer.

14. A complaint may be made to the Information & Privacy Commissioner/Ontario. The Commissioner is located at 2 Bloor St. East, Suite 1400, Toronto, Ontario M4W 1A8, telephone (416) 326-3333.