

North York General Policy Manual

DISCLOSURE OF PERSONAL HEALTH INFORMATION

NUMBER: V-65

CROSS REFERENCE: Privacy & Data Protection V-25
Police Investigations/Working with Police I-240
Warrants, Subpoenas and Civil Processes
Hospital Media VIII-30;
Fundraising VIII-20

ORIGINATOR: Chief Privacy & Freedom of Information Officer
APPROVED BY: Medical Advisory Committee
Operations Committee

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GUIDING PRINCIPLES:

North York General Hospital (NYGH) 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).

Personal health information is only disclosed with the consent of the individual to whom the information relates or as required or permitted by law. When disclosure is discretionary, priority will be given to protecting the safety and security of patients and their families.

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:

This policy contains the following sections:

A. Disclosure of Patient & General Condition Information

Disclosure to:

- B. Media
- C. Locate Family; and in Code Orange, Code Green or Similar Event
- D. Law Enforcement
- E. Reduce, Eliminate Risk
- F. for Fundraising Purposes
- G. Patient/Substitute Decision Maker
- H. Correction of Personal Health Information

A. DISCLOSURE OF PATIENT & GENERAL CONDITION INFORMATION

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.

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2. At the first reasonable opportunity following admission, the patient or substitute decision maker (SDM) will be asked by a nurse whether NYGH may:
 - a) confirm to callers/visitors that the individual is a patient and may provide their location;
 - b) describe their health condition in general terms such as “stable or satisfactory, fair, poor or critical”;
 - c) for communication purposes, display their last name & room number on a patient board that may also contain isolation status and safety information

The response to each question must be recorded in the patient chart. If the patient/SDM refuses consent to any of these disclosures, that information must not be disclosed by the hospital. A patient/SDM may change their mind and the information in the chart will be modified accordingly.

3. DO NOT RELEASE INFORMATION - ALERT

The alert must be set when a patient /SDM does not want admission and location to be disclosed. The “Do Not Release Information” alert is under the VIP icon in PowerChart and must be selected by a Nurse or the Unit Secretary. The alert will then appear in the Patient Access List (PAL). Enabling the alert blocks the patient’s name from being included in the program used by Volunteer Services to help direct visitors. The term “VIP” means any patient who refuses consent to disclosure of their admission and for whom the “Do Not Release Information” alert has been enabled.

Please note that being the SDM or having Power of Attorney for personal care does not override a patient’s right to contact friends and relatives and to have visits from those they wish to see. Visits will only be restricted if the patient’s physician deems it necessary for medical reasons. Our primary concern is our patients, therefore, any visitor who causes distress to the patient or disruption will be asked to leave. If they refuse, Security may be called.

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/SDM will be asked to consent or object to disclosure.
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.

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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

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; IN CODE ORANGE (INCOMING CASUALTIES), CODE GREEN (EVACUATION) OR SIMILAR EVENT

1. If a patient is injured, incapacitated, or ill and unable to give consent, NYGH will disclose sufficient personal health information (PHI) to permit contacting a relative, friend or potential substitute decision maker of the patient.
2. In an individual is deceased or reasonably believed to be deceased, the hospital is permitted to disclose sufficient PHI to enable identification of the individual and to establish contact with relatives or friends to inform them of the death and the circumstances of the death.
3. In a Code Orange, Code Green or similar emergency event, NYGH will facilitate contact between affected patients and their family/friends by disclosing to callers or visitors whether an individual has been admitted and will provide their location and general condition information. In these emergency circumstances, consent need not be obtained prior to disclosure. At the first reasonable opportunity after the event, our standard processes for obtaining and documenting consent as set out in section A must be followed.
4. In a Code Orange, Code Green or similar emergency event, NYGH will facilitate patient/family contact by providing a list of Code Orange/Green patients, their location and general condition (if available) to other hospitals that are also receiving Code Orange or Code Green patients. Similarly, NYGH will accept lists of Code Orange/Green patients from other hospitals and will use the lists to direct families/friends to the hospital where their loved one has been admitted.

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5. It is in the public interest for NYGH to disclose to the media the number of patients admitted to NYGH during a Code Orange, Code Green or similar emergency event and provide general condition information e.g. six patients admitted, four are in stable condition, one is critical and one is deceased. No other information about the patients is permitted to be publicly disclosed. As set out in section “B” all media requests must be directed to Corporate Communications.

D: DISCLOSURE TO LAW ENFORCEMENT

1. Personal health information will be disclosed to comply with a warrant or a subpoena or with the express consent of the individual to whom the information relates. Please refer to the policy “Police Investigations/Working with Police” I-240 and Warrants, Subpoenas & Civil Processes for detailed information and guidance.

E: DISCLOSURE TO REDUCE, ELIMINATE RISK

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. For example,
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.

F: 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.

G: INDIVIDUAL'S ACCESS TO PERSONAL HEALTH INFORMATION

Access rights do 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;
- 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.

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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.
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.

H: CORRECTION PROCEDURE

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

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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.
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

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
- 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

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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

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