



POLICY AND PROCEDURE

DEPARTMENT: Finance & Administration **NUMBER:** 3.5.10

AUTHORIZED BY: **CEO**
VP FINANCE AND ADMIN
Director, Quality, Risk Mgt. & Decision Support

Original Date: November, 2004

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PRIVACY POLICY PRIVACY PRINCIPLES

Policy

At Surrey Place Centre (SPC), privacy is governed by the *Personal Health Information Protection Act*, a law that establishes rules concerning the collection, use and disclosure of personal health information. A health information custodian, SPC and its agents (including staff, physicians, students and volunteers) are responsible for ensuring that the personal health information of our client is treated with respect and sensitivity.

Legal Authority

Personal Health Information Act (PHIPA, 2004)

Services and Supports to Promote the Social Inclusion of Person with Developmental Disabilities Act, 2008 (SIPDA)

Ontario Regulation 299/10 Quality Assurance Measures (QAM)

Privacy Principles:

(1) Accountability for Personal Health Information

SPC is responsible for personal health information under its control in compliance with the *Personal Health Information Protection Act* (PHIPA), 2004.



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- Accountability for SPC compliance with the policy rests with the Chief Privacy Officer, although other individuals within SPC are responsible for the day-to-day collection and processing of personal health information. In addition, other individuals within SPC are delegated to act on behalf of the Chief Privacy Officer, such as the designated privacy contact persons, the Information and Privacy Officer.
- SPC is responsible for personal health information in its possession or custody, including information that has been transferred to an agent of SPC. SPC will use contractual or other means to provide a comparable level of protection while the information is being processed by a third party.
- SPC has implemented policies and practices to give effect to this policy, including:
- In compliance with the *Personal Health Information Protection Act*, SPC will inform clients of the loss, theft or inappropriate access of their personal health information as soon as reasonably possible.
- Breaches of this policy and related privacy policies may be subject to disciplinary action as outlined in the Confidentiality Agreement.



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- SPC and its agents are also subject to the fines and penalties set out in the Personal Health Information Protection Act up to \$50,000 for individuals and \$250,000 for the organization.

(2) Identifying Purposes for the Collection and Personal Health Information

At or before the time personal health information is collected, SPC will identify the purposes for which personal health information is collected. Permitted purposes are the delivery of direct patient care, the administration of the health care system, research, teaching statistics, fundraising, and meeting legal and regulatory requirements as described in the *Personal Health Information Protection Act*.

- Identifying the purposes for which personal health information is collected at or before the time of collection allows SPC to determine the information it needs to collect to fulfill these purposes.
- The identified purposes are specified at or before the time of collection to the individual from whom the personal health information is collected. Depending upon the way in which the information is collected, this can be done verbally or in writing.



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- Notices identifying the purposes for the collection of personal health information are readily available to clients.
- When personal health information that has been collected is to be used for a purpose not previously identified, the new purpose will be identified prior to use. Unless law requires the new purpose, the consent of the individual is required before information can be used for that purpose.
- Persons collecting personal health information will be able to explain to individuals the purpose for which the information is being collected.

(3) Consent for the Collection, Use, and Disclosure of Personal Health Information

The knowledge and consent of the individual are required for the collection, use, or disclosure of personal health information, except where appropriate.

Note: In certain circumstances, personal health information can be collected, used, or disclosed without the knowledge and consent of the individual. For example, legal, medical, or security reasons may make it impossible or impractical to seek consent. Seeking consent may be impossible or inappropriate, for example when the individual is seriously ill or mentally incapacitated. In these circumstances, consent of the individual's substitute decision maker will be sought, where feasible.



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- Consent is required for the collection of personal health information and the subsequent use or disclosure of this information. Typically, SPC will seek consent for the use or disclosure of the information at the time of collection. In certain circumstances, consent with respect to use or disclosure may be sought after the information has been collected but before use (for example, when SPC wants to use information for a purpose not previously identified).
- SPC will make a reasonable effort to ensure that the individual is advised of the purpose for which the information will be used. To make the consent meaningful, the purposes must be stated in such a manner that the individual can reasonably understand how the information will be used or disclosed.
- SPC will not, as a condition of providing service/care, require an individual to consent to the collection, use, or disclosure of information beyond that required to fulfill the explicitly specified and legitimate purposes.
- In obtaining consent, the reasonable expectations of the individual are also relevant. SPC can assume that an individual's request for treatment constitutes consent for specific purposes.



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- The way in which SPC seeks consent may vary, depending on the circumstances and the type of information collected.
- Individuals can give consent in many ways. For example:
 - a) A form may be used to seek consent, collect information, and inform the individual of the use that will be made of the information. By completing and signing the form, the individual is giving consent to the collection and specified uses and/or disclosures.
 - b) Consent may be given verbally or in writing at the time that individuals use a health service.
- In cases where express consent is required and it is provided verbally, this exchange is documented in the client's health records of personal health information.
- An individual may withdraw consent at any time, subject to legal restrictions and reasonable notice. **Withdrawal of the consent will not have a retroactive effect.** SPC will inform the individual of the implications of such a withdrawal.

(4)Limiting Collection of Personal Health Information



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The collection of personal health information will be limited to that which is necessary for the purposes identified by SPC. Information will be collected by fair and lawful means.

- SPC will not collect personal health information indiscriminately. Both the amount and the type of information collected will be limited to that which is necessary to fulfill the purposes identified.
- The requirement that personal health information be collected by fair and lawful means is intended to prevent SPC from collecting information by misleading or deceiving individuals about the process for which information is being collected. This requirement implies that consent with respect to collection must not be obtained through deception.

(5) Limiting Use, Disclosure, and Retention of Personal Health Information

Personal health information will not be used or disclosed for purposes other than those for which it was collected, except with the consent of the individual or as required by law. Personal health information will be retained only as long as necessary for the fulfillment of those purposes.

- If using personal health information for a new purpose, SPC will document this purpose. Unless law permits the new purpose, the consent of the individual is required before information can be used for that purpose.



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- Personal health information that is no longer required to fulfill the identified purposes will be destroyed, erased, or made anonymous.

(6) Ensuring Accuracy of Personal Health Information

SPC will take reasonable steps to ensure that information is as accurate, complete, and up-to-date as is necessary to minimize the possibility that inappropriate information may be used to make a decision about the individual.

- Limitations on the accuracy and completeness of personal health information disclosed will be clearly set out to the recipient where possible.
- When an individual successfully demonstrates the inaccuracy or incompleteness of personal health information, SPC will amend the information as required. Depending upon the nature of the information challenged, amendment involves the correction, deletion, or addition of information. Where appropriate, the amended information will be transmitted to third parties having access to the information in question.
- When a challenge is not resolved to the satisfaction of the individual, SPC will record the substance of the unresolved challenge in the form of a letter from the client stored in the



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client's health record. When appropriate, the existence of the unresolved challenge will be transmitted to third parties having access to the information in question.

(7)Ensuring Safeguards for Personal Health Information

Security safeguards appropriate to the sensitivity of the information will protect personal health information.

- Security safeguards are used to protect personal health information against loss or theft, as well as unauthorized access, disclosure, copying, use, or modification. SPC protects personal health information regardless of the format in which it is held.
- The nature of safeguards will vary depending on the sensitivity of the information that has been collected, the amount, distribution, and format of the information, and the method of storage.
- The methods of protection will include:
 - a) Physical measures such as locked filing cabinets and restricted access to offices.
 - b) Organizational measures such as policies, training, limiting access on a 'need-to-know' basis.



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- c) Technological measures such as the use of passwords, secure computer networks, and audits.
- SPC will make its employees aware of the importance of maintaining the confidentiality of personal health information. As a condition of employment, all new SPC employees/agents (e.g. employee, clinician, allied health, volunteer, researcher, student, consultant, or contractor) must sign a Confidentiality Agreement form with SPC.
- Care will be used in the disposal or destruction of personal health information, to prevent unauthorized parties from gaining access to the information.

(8) Openness about Personal Health Information Policies and Practices

SPC makes readily available to individuals specific information about its policies and practices relating to management of personal health information.

- A written statement is made available to the public. This notice:
 - a) Provides a general description of SPC's information practices.
 - b) Describes how to contact the SPC Privacy Office (the designated privacy contact person)
 - c) Describes how an individual may obtain access to or request correction of a record of personal health information



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d) Describes how an individual may make a complaint to SPC or to the Information and Privacy Commissioner of Ontario

- SPC may make information on its policies and practices available in a variety of ways. For example, SPC may choose to make brochures available, post signs, or provide information online via its public website.

(9) Individual Access to Own Personal Health Information

Upon request, an individual will be informed of the existence, use, and disclosure of his or her personal health information and will be given access to that information. An individual will be able to challenge the accuracy and completeness of the information and have it amended as appropriate.

Note: In certain situations, SPC may not be able to provide access to all the personal health information it holds about an individual. Exceptions to the access requirements will be in accordance with the law. The reasons for denying access will be provided to the individual. Examples may include information that could reasonably be expected to result in a risk of serious harm or the information is subject to legal privilege.



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- Upon request, SPC will inform individual whether or not it holds personal health information about that individual. SPC will seek to indicate the source of this information and will allow the individual access to this information. However, it may choose to make sensitive medical information available through a medical practitioner.
- An individual will be required to provide sufficient information to permit SPC to provide an account of the existence, use, and disclosure of personal health information. The information provided will only be used for this purpose.
- In providing an account of third parties to which it has disclosed personal health information about an individual, SPC will attempt to be as specific as possible. When it is not possible to provide a list of the organizations to which it has actually disclosed information about an individual, SPC will provide a list of the organizations to which it may have disclosed information.
- SPC will respond to an individual's request within the period specified in the Personal Health Information Protection Act (30 days or with notice to the patient, 60 days for more complex requests) and at reasonable cost to the individual. The requested information will be provided or made available with explanation of any term, code, or abbreviation used in the record, where reasonably practical.



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(10)Challenging Compliance with SPC's Privacy Policies and Practices

An individual will be able to address a challenge concerning compliance with this policy.

- SPC has procedures in place to receive and respond to complaints or inquiries about its policies and practices relating to the handling of personal health information.
- SPC will inform individuals who make inquiries or lodge complains of the existence of relevant complain procedures.
- SPC will investigate all complaints. If a complaint is found to be justified, SPC will take appropriate measures, including, in necessary, amending its policies and practices.
- Complaints can be directed to the Chief Privacy Office at 416-925-5141 extension 2455 or by email to felix.camposano@surreyplace.on.ca



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- Individuals may also make a complaint to the Ontario Information and Privacy Commissioner.

Definitions

Agent – A person that, with the authorization of SPC, acts for or on behalf of the organization in respect of personal health information for the purposes of SPC and not the agent's own purposes, whether or not the agent has the authority to bind the custodian, whether or not the agent is employed with SPC and whether or not the agent is being remunerated. (*Personal Health Information Protection Act*)

- Examples of agents of SPC include, but are not limited to, employees, volunteers, students, physicians, residents, fellows, consultants, researchers, vendors.

Health Information Custodian – Listed persons or organizations under the Personal Health Information Act such as hospitals, who have custody or control of personal health information as a result of the work they do. As a public hospital, SPC is considered to be a Health Information Custodian (*Personal Health Information Protection Act, 2004, section 4.1*)



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- Personal health information can be information about a physician or other care providers, a hospital staff person, a client, or a client's family member. Examples of personal health information include a name, medical record number, health insurance number, address, telephone number, and personal health information related to a client's care such as blood type, X-rays, consultation notes, etc.

Record of Personal Health Information – The *Personal Health Information Protection Act* defines a record as personal health information in any form or in any medium whether in written, printed, photographic or electronic form or otherwise. Furthermore, any information in a health record under the custody or control of the SPC Health Records Department, SPC physician offices and departmental clinics (as per the Public Hospitals Act, Regulation 965, Sec. 20.3), includes, but is not limited to:

- Client name, medical record number, health insurance number, address, telephone number.
- All the names of clinical staff involved in the client's care, films, slides, diagnoses, discharge summaries, progress notes, transcribed reports, orders, consents, electronic images and photographs.
- Any information that has been scanned, the electronic copy (scanned version) is the official copy or source documentation for the client care and research purposes.
- Any information and/or medical images in E-Film or the Picture Archiving and Communication System (PACS)



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- Any information in the SPC Clinical desktop, including information from other systems with an inbound and outbound interface.
- Any information in other SPC clinical systems that are integrated into the SPC clinical desktop, including, but not limited to, Horizon Client Folder and MUSE (ECJ management system)