	Access to and Disclosure of Personal Health Information
Location: Administration Manual\Legal and Legislation	Version: 2.00
Document Owner: Manager Privacy and Chief Privacy Officer	Original Approval Date: 08/29/2018
Electronic Approval: Chief Technology and Privacy Officer	Approved Date: 10/11/2019
Review Frequency: 3 years	Next Review Date: 03/01/2019

PURPOSE:

It is a Markham Stouffville Hospital (MSH) policy to manage the access to and disclosure of Personal Health Information (PHI) in accordance with the legislated guidelines governing PHI.

No removal of records from the hospital. It is the understanding of the Markham Stouffville Hospital staff that hospital records created by them or given to them in order to fulfill their job duties are not the owners of the information. The information is the sole propriety of the Markham Stouffville Hospital and the hospital has made an explicit provision that hospital records must not be removed from the hospital at any time.

APPLICATION:

This policy applies only to hospital records managed by the Health Information Department and does not apply not apply to physician offices that maintain their own records.

DEFINITIONS:

Agent: refers to people who have access to PHI within any contractual agreement (e.g. employees, medical staff, students, volunteers, members, officers, directors, researchers, instructors, vendors, contractors, consultants, or those designated as agents by the custodian).

Capacity or capable: refers to the ability to both understand the information that is relevant to deciding whether to consent to disclosure of PHI, and to appreciate the reasonably foreseeable consequences of providing, refusing, withholding or withdrawing such consent.

Disclosure or disclose: means to make PHI available or to release it to another health information custodian or to another person, but does not include use of the information in the meaning set out in the definition of “use”.

Health information custodian (“custodian”; HIC): an organization that has custody or control of PHI as a result of its function as a hospital within the Public Hospital's Act. For the purpose of disclosing PHI from MSH patient records, MSH is the health information custodian. For the purpose of requesting PHI from another source, the term ‘health information custodian’ means a

This document is for internal use only. The electronic copy is deemed to be the most current and approved version. Any documents appearing in paper form are not controlled and should be checked against the document (title as above) on the hospital network prior to use.

Access to and Disclosure of Personal Health Information

person or organization who has custody or control of PHI as a result of or in connection with performing his/her duties as defined in the PHI Protection Act (2004) (“PHIPA”).

Medical record, patient record, health record, hospital record, and hospital file: all terms refer to the “medical record” as described under Section 19(4) of the Hospital Management Regulation enacted under the Public Hospitals Act (RSO, 1990 Reg. 965) and as set out in the MSH Corporate policies related to Medical Records and Chart Completion Policy (ADM-0047), and other policies. All information contained in the medical record consists of PHI.

Personal Health Information (PHI): means identifying information about an individual, in either oral or recorded format, that:

- relates to the physical or mental health of the individual, including the individual’s medical history and family history;
- relates to the providing of health care to the individual, including the identification of a person as a provider of healthcare to the individual;
- relates to payment or eligibility for health care;
- identifies an individual’s substitute decision maker; or
- relates to donations of body parts and substances, including information derived from testing or examination of such parts or substances;
- is the individual’s health number;
- identifies the individual’s substitute decision-maker; or
- any other identifying information about an individual that is not PHI but is included in a record containing PHI

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.

Record: includes all notes, charts and other materials (e.g. films, monitor strips, images and slides) relating to the care provided to any in/out-patient of MSH.

Use: in relation to PHI in the custody or under the control of a custodian or a person, means to handle or deal with the information, but does not include disclosure of the information. A transfer of PHI between a health information custodian and an agent of the custodian is a use by both persons, and not a disclosure by the person making the transfer or a collection by the person receiving the transfer.

PROCEDURE:

TABLE OF CONTENTS

A. GENERAL INFORMATION

- A.1. Authorized purposes
- A.2. Ownership of Records Containing PHI at MSH

This document is for internal use only. The electronic copy is deemed to be the most current and approved version. Any documents appearing in paper form are not controlled and should be checked against the document (title as above) on the hospital network prior to use.

Access to and Disclosure of Personal Health Information

- A.3. Authorization for Release of PHI
- A.4. Responsibility to Maintain Confidentiality of PHI
- A.5. Access to PHI for use by Non-agents of MSH

B. AUTHORIZATION TO RELEASE PERSONAL HEALTH INFORMATION

- B.1. Written Authorization to Release PHI
- B.2. Persons Authorized to Consent to Release PHI
- B.3. Disclosure of PHI without Written Authorization
 - B.3.1 Authorization to Release Psychiatric Information
 - B.3.2 Authorization to Release PHI from the Medical Records of a Deceased Patient
- B.4. Transmission of PHI
 - B.4.1 When transmitting PHI by fax:
 - B.4.2 Transmission of PHI via CD/DVD
 - B.4.3 Verbal Release of PHI
 - B.4.4 Release of PHI for Continuing Care

C. RELEASE OF PERSONAL HEALTH INFORMATION

- C.1. Adoptions
- C.2. Advocate/Legal Power of Attorney for Personal Care
- C.3. Billing/Funding of Services Provided to Patients
- C.4. Birth Certificates and other Information related to Births
- C.5. Canadian Institute of Health Information (CIHI)
- C.6. Cancer Care Ontario (CCO)
- C.7. Children's Aid Societies (CAS) & other child welfare organizations
- C.8. Public Guardian and Trustee
- C.9. College of Nurses
- C.10. College of Physicians and Surgeons of Ontario
- C.11. Colleges of Regulated Health Professionals
- C.12. Home and Community Care (Local Health Integration Network)
- C.13. Coroner
- C.14. Custody Cases
- C.15. Funeral Home / Funeral Director
- C.16. Government Agencies
- C.17. Gun Shot Wound Reporting
- C.18. Hospital/Health Care Facility/Group Practice of Health Care Practitioners, etc. (Health Information Custodian)
- C.19. Insurance Companies
- C.20. Lawyers
- C.21. Media
- C.22. Notice of Motion
- C.23. Occupational Health Services
- C.24. Ontario Health Insurance Plan (OHIP)
- C.25. Inquiry about a Current Patient/Resident
- C.26. Patients (with or without psychiatric treatment)
- C.27. Police
- C.28. Protected/Sequestered Copy

This document is for internal use only. The electronic copy is deemed to be the most current and approved version. Any documents appearing in paper form are not controlled and should be checked against the document (title as above) on the hospital network prior to use.

Access to and Disclosure of Personal Health Information

- C.29. Public Health Authority/Medical Officer of Health
- C.30. Research
- C.31. Search Warrant
- C.32. Subpoena (duces tecum)
- C.33. Underserviced Area Program
- C.34. Veterans' Affairs (VAC)
- C.35. Workers' Safety Insurance Board (WSIB/WCB)

This document is for internal use only. The electronic copy is deemed to be the most current and approved version. Any documents appearing in paper form are not controlled and should be checked against the document (title as above) on the hospital network prior to use.

A. GENERAL INFORMATION

A.1. Authorized purposes

MSH collects uses and discloses personal information or personal health information for the purposes of:

- Providing health care or assisting in providing health care to the individual;
- Planning or delivering patient care programs or services funded by MSH;
- Evaluating, monitoring and allocating resources to these programs and services;
- Risk management or activities to improve quality of care or quality of any related program or service;
- Processing, monitoring, verifying or reimbursing claims for payment under any Act;
- Research, as approved by a Research Ethics Board;
- Marketing, but only with express consent;
- Teaching and education;
- Fundraising;
- Providing the individual's name, religious or other organizational affiliation and location in the facility to a representative of the religious or other organization;
- as otherwise consented to by the individual; and
- as otherwise permitted, authorized or required by law.

A.2. Ownership of Records Containing PHI at MSH

In accordance with the MSH policy, the records referred to in this policy are deemed to be the property of MSH and shall not be removed from the premises without a properly executed legal process or as authorized below. See Responsibility for Disclosure of PHI.

Requests for PHI contained in the patient's medical record (other than routine condition reports) required for purposes of audit, education, research authorized third party and personal access, shall be processed within Health Records Department and shall be accessed or released, with the appropriate authorization and fee unless otherwise indicated by this policy.

A.3. Authorization for Release of PHI

Written Authorization is required for the release of PHI; a valid MSH Authorization to Release PHI form is available (See Appendix I). The valid authorization form is an original document, which includes:

This document is for internal use only. The electronic copy is deemed to be the most current and approved version. Any documents appearing in paper form are not controlled and should be checked against the document (title as above) on the hospital network prior to use.

Access to and Disclosure of Personal Health Information

- Patient full name and correct patient demographic information for identification purposes (Address, DOB, Health Card Number). The specific information to be released (i.e. dates and types of reports)
- State on authorization that Patient/ Requestor is authorizing MSH to release records.
- Release information to: The person, medical provider, third party that ROI will be releasing medical records to be provided in full (Name, Address, Phone and Fax Number).
- Patient Signature: Individuals (14 years of age and older) are required to sign on their own behalf.
- Authorized witness signature (person age 16 and older may sign as a witness).
- Current dated authorization (Upon receipt, authorization to be dated no more than 90 days).

Authorization to release PHI will be accepted by fax, walk-in, or mail for continuity of care purposes. (i.e. releasing the records to a physician's office, community care office, hospital, lab, physiotherapy, chiropractor, naturopaths etc.).

Fees do not apply for releasing records for Continuity of care purposes to Physicians who are registered members of the College of Physicians and Surgeons of Ontario (CPSO), Hospitals and Diagnostic Imaging Centres.

Fees apply to Rehabilitation Services such as Physiotherapy, Chiropractor, Naturopaths etc. Fees must be paid by either the patient or the person who has received consent from the patient to coordinate the pickup of personal health information.

Original wet ink authorizations to release PHI for legal and insurance purposes are required, along with a pre-payment fee of 30.00.

Faxed Authorization to Release PHI forms/requests for direct fulfillment to the individual to whom the information pertains will be accepted; however two valid pieces of government issued identification, one of which must be a photo ID, will be required for identity verification before delivery of required information to the individual. Persons without a driver's license or passport may provide one valid piece of government issued identification, e.g. OHIP card.

Any individual, regardless of age, that is not capable to provide consent for release of PHI, can have a Power of Attorney request records. A copy of the POA must be provided. In the absence of a POA, a notarized document can also be provided to prove that the requestor is the Next Of Kin (NOK), or appropriate Substitute Decision Maker.

Family members requesting a copy of a deceased patient's record must provide a copy of the patient's Will that identified the requestor as the Executor of the Estate. In the absence of a Will a notarized document will be accepted to identify the requestor as the NOK.

A.4. Responsibility to Maintain Confidentiality of PHI

This document is for internal use only. The electronic copy is deemed to be the most current and approved version. Any documents appearing in paper form are not controlled and should be checked against the document (title as above) on the hospital network prior to use.

Access to and Disclosure of Personal Health Information

It is the responsibility of all individuals handling, processing or otherwise having access to PHI to maintain its confidentiality at all times. Failure to do so may result in disciplinary action, including dismissal. PHI shall be maintained in a secure area, not accessible to unauthorized individuals. Individuals requesting PHI must verify their identity to the satisfaction of the Health Records Department. Any concerns regarding the possible misuse of patient information in the hospital shall be referred to the Privacy Office for investigation.

A.5. Access to PHI for use by Non-agents of MSH

When PHI is used by an agent of MSH, for the purpose of providing a contracted service to MSH (e.g. vendor maintenance agreement; purchased services; etc.), the terms of the contract shall include a requirement to abide by the relevant privacy legislation. Any concerns with regard to the possible misuse of PHI shall be referred to the MSH Chief Privacy Officer.

B. AUTHORIZATION TO RELEASE PERSONAL HEALTH INFORMATION

B.1. Written Authorization to Release PHI

Where written authorization is required as outlined in this policy, a valid MSH Authorization to Release PHI form is available (See Appendix I). The valid authorization form is an original document, which includes:

- Authorized signature (see B.2. below);
- Signature of a witness, relationship to patient, and date;
- Correct patient demographic information for identification purposes;
- The date the authorization is signed (Upon receipt, authorization to be dated no more than 90 days) Only information up to and including that date may be released on the basis of the authorization;
- The name of the person/facility who will be receiving the information;
- The source of the information (i.e. MSH);
- The specific information to be released (i.e. dates and types of reports).

Faxed Authorization to Release PHI forms/requests will be accepted if patient information is being provided directly to a medical institution (physician's office, community care office, hospital, lab, etc.). MSH's process is to reject any fax copies of authorizations for the purposes of legal and insurance requests, and obtain an original wet ink authorization.

Faxed Authorization to Release PHI forms/requests for direct fulfillment to the individual to whom the information pertains will be accepted; however two valid pieces of government issued identification, one of which must be a photo ID, will be required for identity verification before delivery of required information to the individual. Persons without a driver's license or passport may provide one valid piece of government issued identification, e.g. OHIP card.

This document is for internal use only. The electronic copy is deemed to be the most current and approved version. Any documents appearing in paper form are not controlled and should be checked against the document (title as above) on the hospital network prior to use.

Access to and Disclosure of Personal Health Information

Authorization forms dated greater than 90 days from date of receipt by Health Records Department are not acceptable. Although it is preferred that the MSH's Authorization to Release PHI Form, form number PR 61000 is used, [See Appendix I]. Other forms of authorization are acceptable if they contain the above-noted requirements.

B.2. Persons Authorized to Consent to Release PHI

If the individual for whom the PHI requested is capable of providing consent, or is at least 14 years of age, that individual may provide written authorization for another person who is capable and at least 14 years of age to provide consent. If the individual with whom the PHI relates to is a child (less than 14 years of age), a parent (or other who has the right of access) or Children's Aid Society (CAS) may consent unless PHI relates to the treatment within the meaning of the *Health Care Consent Act, 1996*, about which the child has made a decision in accordance with the Act or counselling in which the child has participated on his own under the Child's and Family Services Act. Where there is conflict between the capable child who is less than 16 and the parent or the CAS, the decision of the child to give, withhold or withdraw prevails.

However, even with consent, disclosure of PHI cannot occur if the attending physician is of the opinion that such disclosure may result in serious harm to the patient or another person.

Authorization to disclose PHI can be withdrawn at any time upon receipt of written notification. This withdrawal of authorization applies only to future disclosure of information.

Any individual, regardless of age, that is not capable to provide or refuse Consent for the disclosure of PHI requires consent from the appropriate Substitute Decision Maker (SDM) as identified in the SDM hierarchy outlined in the Health Care Consent Act.

- Individual's guardian
- Attorney for personal care
- Representative appointed by the Consent & Capacity Board
- Spouse or partner
- A child or parent or CAS or other person who is lawfully entitled to give or refuse consent in the place of a parent but not a parent with only a right of access
- A parent with only a right of access
- Brother/sister
- Any other relative

If there is a conflict between or among persons of equal rank on the SDM hierarchy, the Public Guardian and Trustee may decide.

If the individual is deceased, the deceased's estate trustee or the person who has assumed responsibility for the administration of the deceased's estate;

This document is for internal use only. The electronic copy is deemed to be the most current and approved version. Any documents appearing in paper form are not controlled and should be checked against the document (title as above) on the hospital network prior to use.

B.3. Disclosure of PHI without Written Authorization

Where the disclosure is reasonably necessary for the provision of health care and it is not reasonably possible to obtain the individual's written consent in a timely manner, and if the individual has not expressly instructed MSH not to make the disclosure, then, PHI may be disclosed to an organization or the Health Information Custodian (HIC) approved within the *Personal Health Information Protection Act, 2004*. Such release must be documented within the patient's MSH medical record. Such situations are discussed further within this policy.

B.3.1 Authorization to Release Psychiatric Information

In the event that a Mental Health patient requests to view their clinical record, the following steps will be followed to manage the request efficiently.

- The Clinician will provide the patient with the form [Consent to Release Personal Health Information Form](#). The signed form must be stored on the patient's chart after the patient signs it.
- The Clinician will notify the Attending Psychiatrist to review the patient's request.

In the event the Attending Psychiatrist determines the patient mentally capable of examining his or her own clinical record:

- All risk variables related to the review will be evaluated. Consideration made as to whether access could reasonably be expected to result in a risk of serious harm to the treatment or recovery of the individual, or a risk of serious bodily harm to the individual or another person
- The Attending Psychiatrist will document in the patient's chart that patient has been determined capable of examining his or her own clinical record and will sign the form to authorize access by the patient.
- The clinical team will arrange with the patient appointment times in order that they may view the chart with a member of the clinical team present at all times as the patient views the chart.
- In the event the patient requests copies, Health Records will make copies for the patient at a pre-determined cost. Health Records will notify the patient once the copies are completed.

In the event the Attending Psychiatrist determines the patient not mentally capable of examining his or her own clinical record:

- The Attending Psychiatrist will document in the patient's chart that the patient has been denied access.
- The Assigned Nurse will notify the Rights Adviser and document this step.

B.3.2 Authorization to Release PHI from the Medical Records of a Deceased Patient

This document is for internal use only. The electronic copy is deemed to be the most current and approved version. Any documents appearing in paper form are not controlled and should be checked against the document (title as above) on the hospital network prior to use.

Access to and Disclosure of Personal Health Information

- PHI about an individual who is deceased, or is reasonably suspected to be deceased may be released for the purpose of identifying the individual or for the purpose of informing any person whom it is reasonable to inform in the circumstances of the fact that the individual is deceased and the circumstance of death where appropriate (PHIPA Section 38(4)).
- PHI about an individual who is deceased, or is reasonably suspected to be deceased may be released to the spouse, partner, sibling or child of the individual if the recipients of the information reasonably require the information to make decisions about their own health care or their children's health care. Documentation supporting relationship to deceased is required.
- In any other circumstance, authorization for the disclosure of PHI must be signed by the deceased's estate trustee or the person who has assumed responsibility for the administration of the deceased's estate. Proof of executorship may be stated in correspondence from a legal firm. Common requests for information include:
 - **Medical Certificate of Death:** Shall not be duplicated, as directed by the Vital Statistics Act. Such inquiries should be referred to the Registrar General's Office in Thunder Bay; 189 Red River Road, 3rd Floor, Thunder Bay, ON, P7B 6L8. Their phone number is 1800-461-2156.
 - **Certificate of Death Coroner's Case:** Where there is indication that a coroner was involved in the case, the requester is referred to the Chief Coroner's Office, 26 Grenville St., Toronto;
 - **Proof of Death Letter:** May be issued by the Health Records Department;
 - **Autopsy Reports:** Such inquiries should be directed to Health Records Department. Written authorization from the legal authority is required. When a copy of the Autopsy report is released to the next-of-kin, it is recommended that the attending or family/referring physician assist in interpreting the findings. In the event of a Coroner's Case, requests for autopsy reports must be referred to the Regional Coroner's Office, 15 Grosvenor St., Toronto.

B.4. Transmission of PHI via Fax

B.4.1 When transmitting PHI by fax:

- The receiver is notified by telephone that the information is being transmitted and the fax number is verified;
- The receiver is requested to stand by the fax machine to receive the information;
- The sender must include a covering letter in the transmission which indicates:
 - name, address and phone number of the sender;
 - name, address and fax number of the receiving party;
 - number of pages transmitted and notification that the enclosed information is confidential;

This document is for internal use only. The electronic copy is deemed to be the most current and approved version. Any documents appearing in paper form are not controlled and should be checked against the document (title as above) on the hospital network prior to use.

Access to and Disclosure of Personal Health Information

- The fax confirmation form shall be verified to ensure information was received as sent. This form will be maintained in the correspondence section of the patient's record;
- If confirmation form indicates erroneous transmittal, the receiver is notified for clarification;
- When receiving patient information by fax:
 - Verify the name of the intended recipient of the information;
 - Verify the number of pages received with the number indicated by the sender as sent;
 - If pages are missing, inform the sender immediately of the missing documents;
 - If bond paper is not used in the receiving fax machine, photocopy faxed reports to ensure long term storage. Shred faxed document.

B.4.2 Transmission of PHI via CD/DVD

When transmitting PHI via CD/DVD

- **By mail:**
 - The information being released must be encrypted file with a password.
 - The password can be e-mailed or mailed via regular mail in a separate envelope.
- **In Person Pick-up (HIM Department)**
 - CD/DVD & password can be released to the requestor in the event of 'in-person' pick-up (upon proof of identification). CD/DVD and password must be provided in separate envelopes.

B.4.3 Verbal Release of PHI

Where information is released verbally, this must be documented within the MSH medical record. Verbal releases require:

- Verification of the requester's name, title, location and telephone number (via main switchboard of facility treating the patient);
- Release of only that information needed for the immediate treatment of the patient.

B.4.4 Release of PHI for Continuing Care

Where the disclosure is reasonably necessary for the provision of health care and it is not reasonably possible to obtain the individual's written consent in a timely manner, and if the individual has not expressly instructed MSH not to make the disclosure, then, PHI may be disclosed to another Health Information Custodian approved within the *Personal Health Information Protection Act, 2004* (PHIPA Section 38(1) (a)). Such release must be documented within the patient's MSH medical record. Such situations are discussed further within this policy.

This document is for internal use only. The electronic copy is deemed to be the most current and approved version. Any documents appearing in paper form are not controlled and should be checked against the document (title as above) on the hospital network prior to use.

Access to and Disclosure of Personal Health Information

Upon patient discharge, a copy of the Discharge Notification Form may be routinely provided, depending on site-specific policies, to the family physician indicated in the patient's record unless otherwise directed by the patient or physician completing this form.

Further to this, a copy of the Discharge Summary and Operative Reports are routinely provided, to the family physician as verified at time of admission unless the physician who dictates the report instructs, at the time of dictation, that a copy not be sent. Copies will also be provided to other physicians designated as responsible for the continuing care of the patient at the request of the physician dictating the note.

C. RELEASE OF PERSONAL HEALTH INFORMATION

C.1. Adoptions

- [See C.7. Children's Aid Societies (CAS) & other child welfare organizations]

C.2. Advocate/Legal Power of Attorney for Personal Care

- If the vulnerable patient is “capable” of “informed consent to release”, obtain patient authorization to release information to the advocate.
- A registered advocate may have access to the medical records of a “vulnerable person” for the purpose of providing advocacy services. If the vulnerable person is believed to be incapable of “informed consent to release”, the records may be released without the patient's written authorization, if there is evidence documented in the chart of the belief of risk of serious harm to the vulnerable person's health or safety.
- A power of attorney for personal care is a legal document in which a person or persons are designated to make decisions about personal care when a patient is incapable to make those decisions.

C.3. Billing/Funding of Services Provided to Patients

- PHI may be disclosed in order for the Minister of Health or another health information custodian to determine or provide funding or payment for the provision of health care (PHIPA Section 38(1)(b)).
- PHI may be disclosed for the purpose of determining or verifying the eligibility of the individual to receive health care or related goods, services or benefits provided an Act of Ontario or Canada and funded in whole or part by the Government of Ontario or Canada or by a municipality (PHIPA Section 39 (1)(a)).
- Confirmation of the requester's name and position should be provided prior to release.

C.4. Birth Certificates and other Information related to Births

- [See Children's Aid Societies, C.7.]

C.5. Canadian Institute of Health Information (CIHI)

- Section 47 (9) of PHIPA allows for the disclosure of PHI to a health data institute; CIHI is considered a health data institute.

This document is for internal use only. The electronic copy is deemed to be the most current and approved version. Any documents appearing in paper form are not controlled and should be checked against the document (title as above) on the hospital network prior to use.

Access to and Disclosure of Personal Health Information

- The contract between the hospital and CIHI restricts the release of PHI to anyone other than as outlined in CIHI's directive (e.g. MOH) unless otherwise authorized by the facility (PHA O. Reg 965 sec 22(2.2)).
- Requests from CIHI for release of information from abstract submissions are forwarded to the President/CEO of the facility for approval.

C.6. Cancer Care Ontario (CCO)

PHI may be released to CCO:

- upon receipt of a written request from CCO as described under Section 23(a) of the Hospital Management Regulation enacted under the Public Hospitals Act (RSO, 1990 Reg. 965) or;
- as a prescribed entity under s. 45 of PHIPA without written authorization of the patient.

C.7. Children's Aid Societies (CAS) & other child welfare organizations

The capable individual who is 14 years or older to whom the PHI pertains:

- The adopted child or if incapable, legal guardian may authorize the release of PHI related to the child, but not information related to the mother.
- Requests for PHI related to the birth mother require the written authorization of the birth mother which may be obtained through the Children's Aid Society or another adoptive agency.
- Requests from parents seeking information about an adopted child, or children seeking information about their adopted mother should be referred to: Adoption Disclosure Unit, Ministry of Community and Social Services (416) 327-4730.
- Requests from an adopted child/legal guardian for the Time of Birth must be in writing and include the signed authorization of the child/legal guardian.
- The birth mother of an adopted child does not have access to the child's medical record.
- Requests from the Children's Aid Society and Catholic Children's Aid Society CAS/CCAS for PHI must indicate whether the child is a permanent or temporary ward of the Society. In cases where the CAS/CCAS does not have legal guardianship, authorization must be given by the parents/legal guardian.
- If no wardship has been established, and the case is under investigation, a Court Order is required for release of PHI.
- If the child is under the temporary care of the Society, or is being supervised in the home by the society, the authorization of the parent/legal guardian is required before copies of PHI may be released.
- A permanent wardship may continue until the child is 16 years of age.
- Upon receipt of a valid authorization from CAS, copies of PHI of a child who is identified as being a Society or Crown Ward may be sent to the Medical Director of that Society, as the legal guardian of the child (PHA O. Reg 965 sec 22(6)(c)(iii)).

C.8. Public Guardian and Trustee

- PHI about an individual may be disclosed to the Public Guardian and Trustee for the purpose of investigating any allegation that a person is incapable of managing personal

This document is for internal use only. The electronic copy is deemed to be the most current and approved version. Any documents appearing in paper form are not controlled and should be checked against the document (title as above) on the hospital network prior to use.

Access to and Disclosure of Personal Health Information

care or property and that serious adverse effects are occurring or may occur as a result (Substitute Decisions Act, 1992, Section 62(2) and Section 27(2)).

C.9. College of Nurses

- [See also C.11. **Error! Reference source not found.**]

C.10. College of Physicians and Surgeons of Ontario

- The Registrar of the College of Physicians and Surgeons of Ontario (CPSO) or a physician appointed by the College may, upon written direction by the CPSO, receive information from a patient's record without patient authorization (described under Section 22(3) of the Hospital Management Regulation enacted under the Public Hospitals Act (RSO, 1990 Reg. 965). Quality and Patient Safety Office (Risk Manager) must be informed of all such requests.

C.11. Colleges of Regulated Health Professionals

- PHI may be disclosed about an individual to a College, within the meaning of the *Regulated Health Professions Act*, upon written direction and for the purpose of enforcing that act. The hospital's Risk Manager must be informed of all such requests.

C.12. Home and Community Care (Local Health Integration Network)

- Where the disclosure is reasonably necessary for the provision of health care and it is not reasonably possible to obtain the individual's written consent in a timely manner, and if the individual has not expressly instructed MSH not to make the disclosure, then, PHI may be disclosed to the Home and Community Care. Such release must be documented within the patient's MSH medical record.
- Requests not meeting the above conditions require valid authorization for release of PHI.
- Disclosure to the Home and Community Care is normally provided prior to the patient's discharge, by the attending physician or patient care/nursing unit. Where additional information is required, the chart may be reviewed in Health Records Department or on the patient care/nursing unit while the patient is an inpatient, providing that the record indicates referral to the Home and Community Care.

C.13. Coroner

- Upon written receipt from a coroner, or a physician or police officer authorized by a coroner in the exercise of his or her powers under the Coroners Act, copies of the patient's record shall be released without further authorization.
- If the coroner requests the patient's original record from the hospital, a complete copy of the record must be made prior to its release. Written request or a coroner's warrant for seizure indicating that the original record must be released is required as described under Section 22(2) (c) of the Hospital Management Regulation enacted under the Public Hospitals Act (RSO, 1990 Reg. 965).

C.14. Custody Cases

This document is for internal use only. The electronic copy is deemed to be the most current and approved version. Any documents appearing in paper form are not controlled and should be checked against the document (title as above) on the hospital network prior to use.

Access to and Disclosure of Personal Health Information

- Where one parent informs staff that the other parent is denied access to a child's information, written legal documentation supporting such exclusion is required on all requests.

C.15. Funeral Home / Funeral Director

- Information required to complete the certificate of death of a patient who deceased at this Hospital may be provided to the funeral home director on a return call confirming the identity of the requester as a funeral home.

C.16. Government Agencies

- The Minister of Health and/or persons appointed by the Minister will be allowed access to PHI without patient authorization as described under Section 22(2.2) of the Hospital Management Regulation enacted under the Public Hospitals Act (RSO, 1990 Reg. 965), or as designated in PHIPA.

C.17. Gun Shot Wound Reporting

- It is mandatory that Markham Stouffville Hospital immediately disclose to the local or municipal regional police force or the local Ontario Provincial Police detachment that a person is being treated at MSH for a gunshot wound. The only identifying information that is released to the police is the person's name if known, the name and location of the hospital reporting the gunshot wound. See Police Investigations/Working with Police Policy.

C.18. Hospital/Health Care Facility/Group Practice of Health Care Practitioners, etc. (Health Information Custodian)

Where the disclosure is reasonably necessary for the provision of health care and it is not reasonably possible to obtain the individual's written consent in a timely manner, and if the individual has not expressly instructed MSH not to make the disclosure, then, PHI may be disclosed to:

- A health care practitioner or a person who operates a group practice of health care practitioners;
- Another health care facility under the *Public Hospitals Act, Mental Hospitals Act, Long Term Act, Charitable Institutions Act, Homes for the Aged and Rest Homes Act, Nursing Homes Act, Homes for Special Care Act, Patients First Act (2016)*;
- A pharmacy within the Drug and Pharmacies Regulation Act;
- A laboratory or a specimen collection centre as defined in the *Laboratory and Specimen Collection Centre Licensing Act*; An ambulance service within the *Ambulance Act*;
- A centre, program or service for community health or mental health whose primary purpose is the provision of health care.

Such release must be documented within the patient's MSH medical record.

Requests not meeting the above conditions require valid authorization for release of PHI.

This document is for internal use only. The electronic copy is deemed to be the most current and approved version. Any documents appearing in paper form are not controlled and should be checked against the document (title as above) on the hospital network prior to use.

C.19. Insurance Companies

- All disclosures to private insurance companies must be submitted in writing and include a valid authorization to release PHI as described under Section 22(6)(c) of the Hospital Management Regulation enacted under the Public Hospitals Act (RSO, 1990 Reg. 965).

C.20. Lawyers

- All legal requests must be submitted in writing and include a covering letter indicating the reason for the request as well as a valid authorization to release PHI. Appropriate directors are informed of requests indicating potential suit against the hospital as (Hospital Management Regulation Section 22(6) (c) enacted under the *Public Hospitals Act* (RSO, 1990 Reg. 965).

Legal representative for Mental Health Hearing

As per the Mental Health Act of Ontario, a lawyer who has been retained to represent a patient at a hearing of the Consent and Capacity Board (CCB) is entitled to access the clinical record. No consent is required.

- The patient's assigned nurse requests identification of the lawyer.
- The lawyer may review the chart in the presence of nursing staff, which may be done in the Nursing Station.
- If the lawyer requests copies of the chart, the Assigned Nurse will call Health Records (ext. 6216) to notify of the request. The Assigned Nurse will provide the contact name of the lawyer to Health Records. Health Records is to provide a response by the next business day

C.21. Media

- PHI requested by the media requires patient authorization and is subject to the provisions of the media code. Such requests are directed to Corporate Communications.

C.22. Notice of Motion

- A Notice of Motion is provided to the hospital in order to advise that records pertaining to a specific patient are being requested through the Court system. The facility is advised that all specified records must be retained and kept in a secure fashion. Health Records Department will advise applicable departments that such Notice has been received to ensure that all records, films, slides and other recordings are not destroyed.

C.23. Occupational Health Services

- The Infection & Prevention Control Department may provide Occupational Health Services with the names of any staff member who have been in contact with a reportable communicable disease.
- Requests for access to PHI of employees require the employee's written authorization.

This document is for internal use only. The electronic copy is deemed to be the most current and approved version. Any documents appearing in paper form are not controlled and should be checked against the document (title as above) on the hospital network prior to use.

C.24. Ontario Health Insurance Plan (OHIP)

- [See also C.3.Billing/Funding of Services Provided to Patients]
- The General Manager of OHIP may inspect and receive PHI from the medical records and from notes, charts and other material relating to patient care and be given copies for the purposes of pursuing, substantiating or establishing the right of OHIP to recover costs as described under Section 22(5.1) of the Hospital Management Regulation enacted under the Public Hospitals Act (RSO, 1990 Reg. 965).

C.25. Inquiry about a Current Patient/Resident

The following PHI may be disclosed regarding a patient/resident at MSH provided the patient has had an opportunity to refuse such disclosure.

- the fact that the individual is a patient or resident in the facility;
- the individual's general health status described as: critical, poor, fair, stable or satisfactory;
- the location of the patient in the facility (PHIPA Sect 38(3))

C.26. Patients (with or without psychiatric treatment)

- Patients may obtain a Proof of Birth, Death or Dates of Hospitalization from Health Records Department (PHA O. Reg 965 sec 22(6) (c)) and as provided for by PHIPA, subject to valid authorization and fee.
- A patient/authorized substitute may receive copies of his/her PHI for personal purposes, subject to correspondence fees, appropriate identification and a valid authorization (PHA O. Reg 965 sec 22(6)(c)) and as provided for by PHIPA.
- Requests for an official birth certificate should be referred to the Registrar General of Ontario; (416) 926-1687. The patient/authorized substitute may review the record in the presence of an appropriate member of the health care team, Patients Relations Coordinator or a member of Health Records Department.
- If the patient disagrees with PHI contained in the medical record, MSH may, at its own discretion, amend the record according to the provisions in the Privacy and Security of PHI Policy, ADM-0050. If the patient wishes, he/she may append a signed and dated statement expressing any differences of fact. The original document cannot be altered or defaced in any way nor may any document be removed from the medical record.
- Where psychiatric information is contained in the patient record the attending psychiatrist (physician) must provide approval for the release. The attending physician is also notified, as a courtesy.
- Where the attending physician/psychiatrist believes disclosure of psychiatric information may be harmful to the patient or another person, the Chief of Staff (on the advice of the physician) may apply to the Chief of Staff for authority to withhold the hospital file. A Form 15 under the Mental Health Act must be completed by the attending physician/psychiatrist in these instances.
- If the psychiatrist is no longer on staff or away for a prolonged period of time, the psychiatrist-in-chief is responsible for reviewing the request.

Access to and Disclosure of Personal Health Information

C.27. Police

- PHI about an individual who is deceased, or is reasonably suspected to be deceased may be released for the purpose of identifying the individual; or for the purpose of informing any person whom it is reasonable to inform in the circumstances of the fact that the individual is deceased and the circumstance of death where appropriate (PHIPA Section 38(4)).
- In any other circumstance, police officers are required to present any one of: a written patient authorization, a search warrant to release/remove chart, or a coroner's letter authorizing release to the police.
- When releasing PHI to a Police officer under any of the above circumstances, obtain and record in the request log, the officer's name, badge number, division, telephone number where he/she may be reached, and the specific information requested.
- It is mandatory that MSH immediately disclose to the local municipal or regional police force or the local Ontario Provincial Police detachment that a person is being treated at MSH and for a gunshot wound. The only identifying information that is released to the police is the person's name, if known, and the name and location of the hospital reporting the gunshot wound (Mandatory Gunshot Reporting Act, (2005), PC-0022)

C.28. Protected/Sequestered Copy

- A patient's file may be sequestered in order to protect its contents for medical/legal purposes. The copy becomes the 'working copy' of the original chart.
- The original chart (prior to its removal) is numbered on each page (i.e. each face of each leaf) in the upper right corner. Once numbered, a complete photocopy of the chart is taken. Both the original and the numbered copy are secured in Health Records Department.
- New originals are subsequently numbered in sequence following the existing original, photocopied, and added to the respective existing copies.
- For purposes of patient care, only the copy is provided. The original record may be accessed by authorized persons. Such access will take place in Health Records Department, under staff supervision.

C.29. Public Health Authority/Medical Officer of Health

- PHI about an individual may be disclosed to the Chief Medical Officer of Health or to a public health authority if the disclosure is made for a purpose that is substantially similar to a purpose of the Health Protection and Promotion Act (PHIPA Section 39(2)).

C.30. Research

- A researcher may have access to PHI provided that approval has been granted through the Research Ethics Board (REB), and:
- An application is made in writing to Health Information Management Department via the Request for Chart Review for Research Purposes form; a research plan and a copy of the decision of the research ethics board (REB) that approves the research plan is provided; and the researcher agrees to comply with the conditions and restrictions

This document is for internal use only. The electronic copy is deemed to be the most current and approved version. Any documents appearing in paper form are not controlled and should be checked against the document (title as above) on the hospital network prior to use.

Access to and Disclosure of Personal Health Information

contained on the Request for Chart Review for Research Purposes form (PHIPA Section 44(1)).

- All persons requiring access to such PHI for a specific research project must sign the confidentiality statement on the Request for Chart Review form.
- Such access by MSH internal staff requires additional authorization, on the Request form, by the VP, Medical Affairs.
- If the principal investigator is not an agent of MSH, an internal medical sponsor for the project is required in addition to the previously stated permissions.
- If the patient is currently in hospital, the record shall not be removed from the unit. An authorization to review the record will be provided by Health Information Department. If the patient is discharged, records must be reviewed in Health Records Department.

C.31. Search Warrant

- Police are requested to present Search Warrants for the release of patient information during regular Health Information Management department hours except for deceased patients. [See C.27 Police]
- Search Warrants received outside of regular Health Information Management department hours will be processed the following business day. Ask Police to contact the Release of Information Specialist at extension 6216.
- Police are required to present the two-part police officer identification prior to receiving any access or copies of the chart.
- The warrant must specify the patient's name. General warrants are not accepted in response to access requirements for a specific chart.
- For charts containing psychiatric information, inform the Attending Psychiatrist or Chief Psychiatrist to authorize the release. If the Psychiatrist objects to the release, a Form 15 must be completed (MHA O Reg. Chapter M.7 (sec 35(6))).
- Copies of PHI may be provided to the police.
- Retain a copy of the warrant within the patient's MSH hospital file.
- Document on the warrant (prior to copying) the officer's name, badge number, division, telephone number, the copied information provided, the current date, and your own signature. Request that the officer sign for any copies received.

C.32. Subpoena (duces tecum)

- A subpoena duces tecum is a legal order demanding the person to whom it has been issued to produce the patient's record before a judge.
- Only subpoenas issued in Ontario or the Supreme Court of Canada are considered valid.
- Subpoenas issued from outside Canada are treated as 'legal' requests for information.
- A subpoena related to PHI containing psychiatric information must be referred promptly to the attending psychiatrist or Psychiatrist-in-Chief for written approval to produce the record in court. The attending physician/psychiatrist may elect to complete a Form 15 stating his/her professional opposition to the disclosure, in which case no patient information is to be released except under an order made by the court as a result of a hearing with the attending physician (MHA, O. 1990 chap M.7 Sec 35(6)).

This document is for internal use only. The electronic copy is deemed to be the most current and approved version. Any documents appearing in paper form are not controlled and should be checked against the document (title as above) on the hospital network prior to use.

Access to and Disclosure of Personal Health Information

- Physicians, nurses and other health care professionals must refer the issuance of a subpoena duces tecum to Health Records Department
- Although the original record must be presented in court, the court is requested to accept an authenticated, complete photocopy of the original.
- Charts for patients named in a subpoena will be sequestered and secured in the designated medico-legal file in Health Records Dept. immediately upon notification.
- The original records which have been subpoenaed are sequestered until after the court hearing. [See Protected/Sequestered Copy, C.28]

C.33. Underserviced Area Program

- PHI may be released to a physician assessor appointed by the Minister of Health, for the purposes of evaluation applications to the Underserviced Area Program as described under Section 23(c) of the Hospital Management Regulation enacted under the Public Hospitals Act (RSO, 1990 Reg. 965).

C.34. Veterans' Affairs (VAC)

- A person with a written direction from the Deputy Minister of Veterans' Affairs (Can.) or designate, may inspect or receive copies of PHI for the purpose of determining or verifying the eligibility of the individual to receive health care or related goods, services or benefits provided under an Act of Ontario or Canada and funded in whole or in part by the Government of Ontario or Canada or by a municipality.

C.35. Workers' Safety Insurance Board (WSIB/WCB)

- Although the WSIB Act authorizes WSIB to obtain PHI, patient authorization is also requested, (although not required by law) indicating the date and type of injury.
- Requests from other provinces require both the request in writing and valid patient authorization.

REFERENCES:

Personal Health Information Protection Act, 2004, SO 2004, c 3, Sch A
Mental Health Act, RSO1990, c M.7. & Regulation 741
Ministry of Health & Long-Term Care Mental Health Forms.
Public Hospitals Act (RSO, 1990 Reg. 965)
Ontario Hospital Association (2016), *A Practical Guide to Mental Health and the Law in Ontario*
Revised Edition

RELATED DOCUMENTS:

Privacy of Personal Health Information Policy
Police Investigations / Working with Police Policy
Medical Records and Chart Completion Policy (ADM-0047)
270.501.045 Chart Access by Patient's Lawyer for CCRB Hearings on IPMH (Archived)
270.501.025 Patient Request to View Chart on Inpatient Mental Health (Archived)

RESPONSIBILITY

This document is for internal use only. The electronic copy is deemed to be the most current and approved version. Any documents appearing in paper form are not controlled and should be checked against the document (title as above) on the hospital network prior to use.

Access to and Disclosure of Personal Health Information
--

Required Endorsements	Sponsor	Approval Authority
Office of Access and Privacy Health Information Management	Chief Privacy Officer	Senior Leadership

DOCUMENT HISTORY:

Type	Individual/Committee	Date	Outcome
Draft	Chief Privacy Officer, Office of Access and Privacy	06/08/2018	New Document
Review	Senior Leadership	28/08/2018	Approved
Revise	Privacy Specialist; Chief Privacy Officer	05/09/2019	Minor Revision; Approved
Revise	Privacy Specialist; Chief Privacy Officer	11/10/2019	Minor Revision; Approved

This document is for internal use only. The electronic copy is deemed to be the most current and approved version. Any documents appearing in paper form are not controlled and should be checked against the document (title as above) on the hospital network prior to use.

Access to and Disclosure of Personal Health Information

APPENDICES:

APPENDIX A: Consent to Release Personal Health Information



Print

Reset Form

CONSENT TO RELEASE PERSONAL HEALTH INFORMATION

Markham Site 381 Church Street, P.O. Box 1800
 Markham, Ontario L3P 7P3
 Phone: (905) 472-7373 ext. 6216
 Fax: (905) 472-7381

Uxbridge Site 4 Campbell Dr, P.O. Box 5003
 Uxbridge, Ontario L9P 1S4
 Phone: (905) 852-9771 ext. 5245
 Fax: (905) 862-2007

1. Patient Information			
Last Name		First Name	
Date of Birth (DD/MM/YY)		Health Card #	
Address			
City	Province	Country	Postal Code
Phone # (Best Daytime):		Alternate #:	
2. Personal Health Information			
I hereby authorize Health Information Management of Markham Stouffville Hospital to disclose the following personal health information: <i>(specify information requested)</i>			
<i>contained in the record of my</i>			
<input type="checkbox"/> Emergency visit on: date(s) _____			
<input type="checkbox"/> Outpatient visit on: date(s) _____ in Dept.: _____			
<input type="checkbox"/> Inpatient visit on: date(s) _____ to: _____			
3. Release Information			
Release my personal health information TO: <input type="checkbox"/> Self <input type="checkbox"/> Other (as indicated below)			
Name			
Address			
City	Province	Country	Postal Code
Phone		Fax	
4. Signatures			
Print Name of Patient/Substitute Decision Maker			
Signature of Patient/Substitute Decision Maker		Print Name of Witness	
Relationship to Patient (if signed by Substitute Decision Maker)		Signature of Witness	
Date		Date	
Note:			
1. The authorization must be dated within 90 days of submission.			
2. The authorization only pertains to information dated prior to the date it was signed.			



CONRPHIHR (12/15)

This document is for internal use only. The electronic copy is deemed to be the most current and approved version. Any documents appearing in paper form are not controlled and should be checked against the document (title as above) on the hospital network prior to use.

Access to and Disclosure of Personal Health Information

Guide to Requesting your Personal Health Information from Markham Stouffville Hospital, Markham or Uxbridge site

To request a copy of your personal health information, you must provide the following:

- A completed and signed *Consent to Release Personal Health Information* form
- The administrative fee (see details below)

Send the required information to:

Markham site
Fax: (905) 472-7381
Email: patientrecord@msh.on.ca

Uxbridge site
Fax: (905) 862-2007

Requests are processed when the above required information is received in good order. They are processed in order of receipt. We are required to respond within 30 days.

Release of Information will contact you when the records are ready for pick up and inform you of the balance owing (if applicable). One piece of government issued photo ID will be required for identity verification before the records are released.

If you are requesting copies of diagnostic images such as X-rays, MRIs or CT scans (in disc format), contact the Diagnostic Imaging Department at 905-472-7373, ext. 6505.

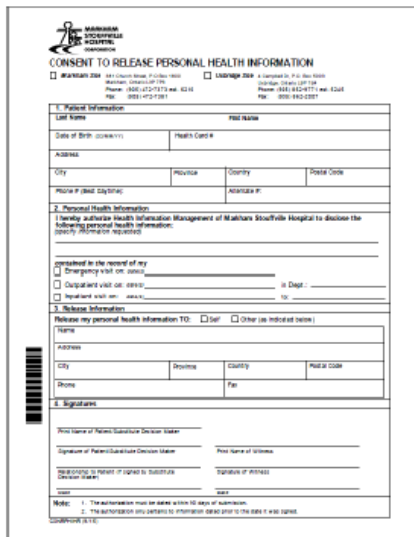
Administrative Fees

Requests are subject to a \$30.00 non-refundable administrative fee which includes the first 20 pages of requested records. An additional 25¢ per hard copy page (exceeding the first 20 pages) is payable upon completion of the request.

If your records are to be released to an individual within your circle of care (ie. physician, hospital, etc.) the administrative fees do not apply.

For urgent requests, we do offer a rush service at an additional fee of \$300.00 and must be provided before processing. Urgent requests can be ready within three to five business days.

How to complete the *Consent to Release Personal Health form*



The form is titled "CONSENT TO RELEASE PERSONAL HEALTH INFORMATION" and includes the Markham Stouffville Hospital logo. It is divided into several sections: 1. Patient Information (Last Name, First Name, Date of Birth, Health Card #, Address, City, Province, Country, Postal Code, Phone # (land/Celling), Address #). 2. Personal Health Information (I hereby authorize Health Information Management of Markham Stouffville Hospital to disclose the following personal health information: identify information requested). 3. Release Information (Release my personal health information TO: Self, Other (as indicated below), Name, Address, City, Province, Country, Postal Code, Phone, Fax). 4. Signatures (Print Name of Patient/Authorized Decision Maker, Signature of Patient/Authorized Decision Maker, Print Name of Witness, Signature of Patient/Authorized Decision Maker, Signature of Witness, Date, Date). Notes: 1. The authorization must be dated within 90 days of submission. 2. The authorization may be dated prior to the date it was signed. (Continued on 2nd page)

Section 1 Patient Information

Complete this section with all your information including date of birth.

Section 2 Personal Health Information.

List, in detail, the records you are requesting and the dates pertaining to the visit.

For example: Complete health record, lab, diagnostic imaging reports.

Section 3 Release Information

If you are requesting copies of your Personal Health information for yourself, check **Self**.

If you are releasing your information to another individual (such as your Power of Attorney, parent, physician, insurance company, executor of estate), check **Other** and their information (complete name, address, contact number, etc.) must be completed

Section 4 Signatures

All forms must be signed, dated and witnessed.

The form must be signed and dated within 90 days of receipt.

Children under the age of 12:

- both parents must print their name and sign the form. In the event that one parent has sole custody, proof of custody must be provided.
- OR
- legal guardian must print their name and sign the form and provide proof of guardianship

If you have an appointed Power of Attorney(s), they must print their name and sign the form and provide a copy of the Power of Attorney for Personal Care.

If you are making a request for records of a deceased patient, the executor(s) information must be completed in Section 3 and signed by all the executors in Section 4. Proof of executor authority and a copy of the will is required.

If you have any questions, please contact Release of Information department at 905-472-7373 ext 6216.

This document is for internal use only. The electronic copy is deemed to be the most current and approved version. Any documents appearing in paper form are not controlled and should be checked against the document (title as above) on the hospital network prior to use.