

# KINGSTON GENERAL HOSPITAL

## ADMINISTRATIVE POLICY MANUAL

**Subject: Access to Personal Health Information**

**Number: 09-140**

Prepared/Reviewed by: Patient Records and Registration, Privacy Office  
Medical Advisory Committee  
Planning and Performance Committee

Page: 1 of 5  
Original Issue: 1984.10  
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### Principle

Personal Health Information (PHI) is one of the most sensitive types of personal information that is shared for a variety of purposes, including care and treatment, health research, and managing our publicly funded health care system. The Personal Health Information Protection Act (PHIPA) sets out the rules that custodians and agents of patient's personal health information must follow for the collection, access, use, disclosure, retention, and destruction of PHI.

The Freedom of Information and Protection of Privacy Act has provisions to access PHI. Any PHI request through Freedom of Information will be directed to Health Records for processing under this policy and PHIPA.

The hospital is the "custodian" of PHI collected for the purpose of the provision of health care to all registered in-patients and out-patients, and will provide access for our patients in the timeliest manner operationally possible.

Under PHIPA, patients have the right to withhold or withdraw their consent for the use, access or disclosure of their PHI, with some exceptions.

Employees, medical staff, volunteers, students, contractors who act for or on behalf of the hospital for the purposes of the hospital and not their own purposes, are "agents" of the hospital.

### Preamble

The PHIPA permits access to PHI by defined individuals for the purpose for which the information was collected or if permitted by law;

- for planning and delivering services (but not if the patient expressly instructs otherwise)
- for risk management
- for educating students
- pursuant to a legal proceeding
- obtaining payment for the provision of health services
- approved research (but not if the patient expressly instructs otherwise)

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For policy and procedure on rights to copy and distribute PHI, see Disclosure of Personal Health Information policy (KGH 09-050; HDH 7000) and Duplication of Personal Health Information Policy (KGH 09-150; HDH 7090).

### Definitions

Agent: A person who acts on behalf of the custodian in exercising powers or performing duties with respect to personal/private information whether or not employed (or remunerated) including volunteers, students, physicians, consultants, nurses, vendors and contractors.

Custodian: As defined in the Personal Health Information Protection Act, 2004 (PHIPA) states “a person or organization who has custody or control of Personal Health Information as a result of or in connection with performing the person’s or organization’s powers or duties or the work as described in section 3 (1) of the act.”

Express consent: Is obtained when patients explicitly agree to the collection use and disclosure of their personal health information.

Implied consent: Permits one to conclude from surrounding circumstances that a patient would reasonably agree to the collection, use or disclosure of the patient’s personal health information.

Lock box: A term used to describe a patient’s right to withhold or withdraw their consent for the access, use and disclosure of their PHI, as permitted under the PHIPA.

Patient: Patient includes patient, substitute decision maker, or legal guardian.

Personal health information: In the Act is described as “Identifying information about an individual in oral or recorded form” as it:

- a) Relates to the physical or mental health of the individual, including information that consists of the health history of the individuals family,
- b) Relates to the providing of health care to the individual, including the identification of a person as a provider of health care to the individual,
- c) Is a plan of service within the meaning of the Long-Term Care Act, 1994 for the individual,

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- d) Relates to payments or eligibility for health care in respect of the individual,
- e) Relates to the donation by the individual of any body part or bodily substance of the individual or is derived from the testing or examination of any such body part or bodily substance,
- f) Is the individual's health number, or,
- g) Identifies an individual's substitute decision-maker.

Research: Means a systematic investigation designed to develop or establish principles, facts or generalizable knowledge, or any combination of them, and includes the development, testing and evaluation of research.

### Policy

#### 1. Patient Withdrawal of Consent

A patient can withhold access to their PHI from a user/s, use or disclosure of their PHI, with some exceptions. (i.e., emergency, mandatory reporting through other laws, subpoena, etc). This is informally referred to as a lock box.

#### 2. Access to PHI with Consent

Access to PHI is permitted to anyone with the expressed written consent of the patient (or their substitute decision-maker). (See KGH policy 09-050 Disclosure of Personal Health Information).

2.1 If a lock box is initiated on a patient record, additional consent may be required.

#### 3. Access to PHI without Consent

Access is authorized to all persons directly involved in the care of the patient which includes:

3.1 Health care practitioners and groups of health care practitioners, public and private hospitals, pharmacies, laboratories, ambulance services, community care access corporations, community service providers (defined in the Long-Term Care Act), psychiatric facilities, independent health facilities, homes for the aged, rest homes, nursing homes, care homes and homes for special care and community health or mental health centers, programs and services whose primary purposes are providing care,

3.2 Students from recognized programs under supervision of their instructors,

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- 3.3 Administrative staff exercising responsibilities as it relates to risk management, error management or maintenance of quality of care,
- 3.4 For approved research conducted by the custodian. (See KGH policy #11-150 Health Research),
- 3.5 Affiliated staff, health care professionals,
- 3.6 Obtaining payment, claims processing,
- 3.7 A patient's locked PHI may be accessed without consent only in emergency circumstances or as allowable by law.

#### 4. Access to PHI by Patient

The custodian must provide patients with access to their personal health information in a timely manner unless:

Exceptions:

- 4.1 A record or information in the record are subject to legal privilege that restricts the disclosure to patients,
- 4.2 Acts of Canada or court order prohibiting disclosure to individuals,
- 4.3 Psychological tests or assessments (raw data),
- 4.4 Information collected in anticipation of or for use in legal proceedings,
- 4.5 Access may cause harm to the patient or identified individuals.

#### 5. Access to PHI by Employee

Agents of the hospital who have access to systems containing their PHI are required to follow the same process described for "Outpatients" below.

### **Procedure**

#### Patient Withdrawal of Consent

1. A patient's request to withdraw consent for access, use or disclosure must be indicated on the appropriate form. (See Appendix B "Request to Lock Personal Health Information")
2. The instructions for completion must be followed as listed on the form.
3. All requests for withdrawing consent for access, use or disclosure must be processed immediately and contained on the patient record.
4. Questions regarding lock box should be directed to the KGH Privacy Office.

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### Outpatients (closed record):

1. Patients or substitute decision makers must request access to and/or a copy of their PHI in writing to: (See Appendix A - Request for Access to the Personal Health Record)
  - 1.1 Their health care provider,
  - 1.2 Director of Patient Records and Registration or delegate
2. Patients must be granted access within a maximum of 30 days after receiving request. Urgent circumstances may require a shorter turnaround and this will be accommodated as operationally possible.
3. Staff will be present if the record is reviewed by the patient to respond to any questions they may have. The patient may elect to receive a photocopy only.

### Inpatients (open record):

1. When a patient is an inpatient, a health care provider is required to assist the patient with the review of their record and document on the patient record that the review has occurred.
2. Where there is a patient request to view their record, access should be granted right away. Generally, access must be granted within a maximum of 30 days after receiving request.
3. Staff will be present if the record is reviewed by the patient to respond to any questions they may have.
4. If copies of PHI are being requested, this should be made in writing as indicated in "Outpatients" above.

Authorizing Signature

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Leslee J. Thompson  
President and Chief Executive Officer

Related policies: 09-150 Disclosure of Personal Health Information  
11-150 Health Research