

# KINGSTON HEALTH SCIENCES CENTRE

## ADMINISTRATIVE POLICY MANUAL

**Subject: Personal Health Information Protection**

**Number: 09-055**

Page: 1 of 4

Original Issue: 2017.04

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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 patients' PHI must follow for the collection, use and disclosure of PHI. The purpose of this policy is to establish the framework relating to protection of our patients' PHI in all forms.

### Policy

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.

All persons employed, appointed, and affiliated with the hospital 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, and subject to this policy.

### Definitions

Affiliate: An individual who is not employed by the hospital but performs specific tasks at the hospital including: learners, volunteers, contractors or employees of contractors who may be members of third-party contract or under direct contract to the hospital, and individuals working on the hospital premises, but funded/employed through an external source (i.e. research and university staff on site).

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.

Circle of care: Refers to those in the health care team who are actually involved in the care or treatment of a particular patient, and includes: family physician, referring physician, referring institutions as documented on the patient record; health information custodians for the purpose of providing or assisting in providing health care to the individual; and community health care providers, correctional institutions; and any other health care providers identified in the follow-up care of the patient.

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

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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 PHI.

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
- 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.

### **Custodian Responsibilities**

1. The hospital, as custodian, relies on consent, implied or expressed, to collect, use or disclose PHI. For delivery of care to our patients, expressed consent is not required. Refer to Kingston Health Sciences Centre (KHSC) policy 09-050, Disclosure of Personal Health Information.
2. The hospital, as custodian, will only collect, use or disclose personal health information for the purposes of:

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- planning and delivering our health care programs and services. This may include sharing health information with other approved health information organizations and regional health information repositories;
  - communicating with other allied health care professionals who will provide your follow-up care;
  - performing activities to improve and maintain the quality of the care that we deliver to you;
  - conducting risk management activities;
  - teaching health care professionals;
  - planning, administering and managing our internal operations;
  - obtaining payment for delivery of your health care (e.g. from OHIP, WSIB or others);
  - fundraising to improve our healthcare services and programs (information limited to name and address);
  - supporting approved health care research;
  - complying with legal and regulatory requirements
3. The hospital, as custodian, will provide patient access to personal health information in accordance with current legislation. Refer to KHSC policy 09-140, Access to, Correction and Use of Personal Health Information.
  4. The hospital, as custodian, will ensure appropriate safeguards are in place for the security, retention and destruction of PHI, as per related policies.
  5. With respect to the disclosure of PHI for research purposes the hospital, as custodian, will ensure there is an appropriate research plan, which has been approved by an appropriate research ethics board. Refer to KHSC policy 11-150, Health Research.

### Agent Responsibilities

1. Agents will collect, use and disclose PHI only:
  - as it relates to the role they are providing for the custodian
  - as defined in the contract with the custodian
  - as outlined in the hospital/departmental policy and procedure
2. Agents wishing to access their own medical record must follow KHSC policy 09-140 Access to, Correction and Use of Personal Health Information.

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3. Agents will report breaches of information to the KHSC Privacy Office 613-549-6666 ext. 2567.

Authorizing Signature

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Dr. David Pichora  
President and Chief Executive Officer

Related Policies: 01-146 Email Usage  
01-220 Records Management  
01-221 Privacy Practices  
01-225 Privacy Breach Management  
09-050 Disclosure of Personal Health Information  
09-140 Access to, Correction and Use of Personal Health Information  
09-150 Medical Records: Duplication of Patient Information  
11-150 Health Research