

Access to Records Policy

Note: All section references below are from the Personal Health Information Protection Act (PHIPA). We refer throughout to the Village Family Health Team (VFHT) and staff and agents— but this policy applies to all Queen West Family Health Organization (FHO) members and staff equally. The FHO is the health information custodian for purposes of PHIPA, and VFHT acts as its agent for purpose of assisting in responding to requests for access to records of personal health information.

Purpose: The purpose of this Policy is to set out physicians' professional and legal obligations with regard to providing patients access to their records of personal health information and to provide all VFHT team members guidance in responding to such requests.

All patients of VFHT have a right to access their health records edical unless:

- a) The record or the information in the record is subject to a legal privilege that restricts disclosure of the record or the information, as the case may be, to the individual;
- b) Another Act, an Act of Canada, or a court order prohibits disclosure to the individual of the record or the information in the record in the circumstances;
- c) The information in the record was collected or created primarily in anticipation of or for use in a proceeding, and the proceeding together with all appeals or processes resulting from it, have not been concluded;
- d) The following conditions are met:
 - i) the information was collected or created in the course of an inspection, investigation or similar procedure authorized by law, or undertaken for the purpose of the detection, monitoring or prevention of a person's receiving or attempting to receive a service or benefit, to which the person is not entitled under an act or a program operated by the Minister, or a payment for such a service or benefit, and
 - ii) the inspection , investigation, or similar procedure, together with all proceeding, appeals to processes resulting from them, have not been concluded;
- e) Granting the access could reasonably be expected to:
 - (i) 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,
 - (ii) Lead to the identification of a person who was required by law to provide information in the record to the custodian, or
 - (iii) Lead to the identification of a person who provided information in the record to the custodian explicitly or implicitly in confidence if the custodian considers it appropriate in the circumstances that the identity of the person be kept confidential;

(PHIPA Section 52 "individual's right to access)

Individual's Plan of Service

Despite subsection (1), a health information custodian shall not refuse to grant the individual access to his or her plan of service within the meaning of the Home Care and Community Services Act, 1994.

(s. 52(4))

Consultation Regarding Harm

Before deciding to refuse to grant an individual access to a record of personal health information under subclause (1) (e) (i), a VFHT may consult with a member of the College of Physicians and Surgeons of Ontario or a member of the College of Psychologists of Ontario.(s. 52 (5)). In ordinary circumstances and in accordance with the VFHT Privacy Policy, the Executive Director will do the initial review of the record when an access request is made.

Request for Access

An individual may exercise a right of access to a record or personal health information by making a written request for access to Village Family Health Team.

(s. 53 (1)).

Detail in request

The request must contain sufficient detail to enable Village Family Health Team to identify and locate the record with a reasonable effort.

(s. 53(2)).

Response to patient

When requested patient requests access to his/her record of personal health information, the VFHT team shall,

- a) Make the record available to the individual for examination and, at the request of the individual, provide a copy of the record to the individual and if reasonably practical, an explanation of any term, code or abbreviation used in the record;
- b) Give a written notice to the individual stating that, after a reasonably search, the custodian has concluded that the records does not exist, cannot be found, or is not a record to which this Part applies, if that is the case;
- c) If the custodian is entitled to refuse the request, in whole or in part, the custodian should give the patient written notice providing a reason for the refusal and stating that the individual is entitled to make a complaint about the refusal to the Information and Privacy Commissioner/Ontario under Part VI of PHIPA. 52 (1) (c), (d) and (e). (s. 54 (1));

Time for Response

VFHT shall give the response required as soon as possible in the circumstances but not later than 30 days after receiving the request.

(s. 54(2)).

Extension of time for response

Within 30 days after receiving the request for access, VFHT may extend the time limit set out in the subsection (2) for a further period of time of not more than 30 days if,

- a) Meeting the time limit would unreasonably interfere with the operation of the custodian because the information consists of numerous pieces of information or locating the information would necessitate lengthy search, or
- b) The time required to undertake the consultation necessary to reply to the request within 30 days after receiving it would make it not reasonably practical to reply within that time.

(s. 54(3))

Notice of extension

Upon extending the time limit under subsection (3), the VFHT shall give the individual written notice of the extension setting out the length of the extension and the reason for the extension. (s. 54(4)).

Expedited Access

Despite subsection (2), the VFHT shall give the response required by clause (1) (a), (b), (c) or (d) within the time period that the individual specifies if,

- a) The individual provides the custodian with evidence satisfactory to the custodian, acting on a reasonable basis, that the individual requires access to the requested record of personal health information on an urgent basis within that time period, and
- b) The custodian is reasonably able to give the required response within that time period.

(s. 54(5)).

Frivolous or vexatious requests

If the health information custodian believes, on reasonable ground, that a request for access to a record of personal health information is frivolous or vexatious, or is made in bad faith, may refuse to grant the individual access to the requested record.

(s. 54(6)).

Effect of non-compliance

If the VFHT does not respond to the request within the time limit or before the extension, if any expires, it shall be deemed to have refused the individual's request for access. (s. 54(7))

Identity of Individual

VFHT shall not make a record, or personal health information, or a part of it available to an individual under this Part or provide a copy of it to an individual under clause (1) (a) without first taking reasonable steps to be satisfied as to the individual's identity. (s. 54(9)).

Fee for Access

VFHT, when making health records available to an individual, may charge the individual a fee for that purpose if it first gives the individual an estimate of that fee.

(s. 54(10))

Amount of fee

The amount of the fee shall not exceed the prescribed amount or the amount of reasonable cost recovery, if no amount is prescribed.

(s. 54(11)).

Waiver of Fee

The VFHT may waive the fee that an individual is required to pay if, in its opinion, it is fair and equitable to do so.

(, s. 54 (12)).

Resources:

Personal Health Information Protection Act, 2004 (PHIPA).

http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_04p03_e.htm#

College of Physicians and Surgeons of Ontario –Confidentiality of Personal Health Information

<http://www.cpso.on.ca/policies-publications/policy/confidentiality-of-personal-health-information>
