

HAILEYBURY FAMILY HEALTH TEAM CLINICAL PROTOCOLS

HFHT-05

CATEGORY: Privacy

- **Privacy Plan** (HFHT-05)
- **Consent for Release of Patient Information** (HFHT-05 (a))
- **Pledge of Confidentiality** (HFHT-05 (b))
- **Statement of Privacy Practices** (HFHT-05 (c))
- *Protecting Your Privacy Handout* (HFHT-05 (d))

APPLICATIONS: Physicians & Team Members (Contract and Employees)

DATE OF CREATION: June 2007

APPROVED:

Signature

Date

Signature

Date

Preamble

Haileybury Family Health Team (HFHT) recognizes its responsibility to comply with the Personal Health Information Protection Act (PHIPA (2004)). The overall aim of PHIPA is to provide consistent and comprehensive rules for the collection, use and disclosure of personal health information across both public and private health sectors. HFHT is subject to PHIPA. HFHT, through training, policies and procedures, and public declaration of privacy practices, aims to convey a sense of confidence and trust to patients and the public that personal health information is respected and honored. It also demonstrates its commitment to meet legal privacy requirements.

Privacy principles and legislation provide individuals with certain rights:

1. **Control**-The individual has the right to provide or withhold consent
2. **Knowledge**-The individual must have knowledge about how his/her personal information will be collected, used or disclosed
3. **Access**-The individual must be given access to his/her personal health information upon request and must have ability to amend details if not correct.
4. **Recourse**-The individual has the right to complain if his/her information is compromised

Definitions

Personal Health Information

The Act defines Personal Health Information (PHI) as ‘identifying information about an individual that relates in any way to his/her physical or mental health and/or providing health care services to them’. It is information, in verbal or any recorded format, about an individual’s health or health care history in relation to:

- The individual’s physical or mental condition, including family medical history;
- The provision of health care to the individual;
- The individual’s health card number;
- Billing information (provincial plan, private insurance);
- The donation of blood or body parts, or what is derived from the testing or examination of such parts or substances; and
- The identity of a health care provider or substitute decision maker for the individual.

Health Information Custodian

A health information custodian (HIC) is a listed individual or organization under PHIPA that, as a result of their position or responsibilities, has custody or control of personal health information. HFHT is classified as a HIC.

Agent

Agents are individuals who perform services on behalf of a HIC. They include any person who is authorized to perform services or activities on the custodian’s behalf and for the purposes of the custodian. With respect to the HFHT, physicians, nurse practitioners, registered nurses, social worker and support staff are identified as agents.

Circle of Care

Circle of care is a term used to describe the health information custodian and its authorized agents who are permitted to rely on a patient’s implied consent when collecting, using or disclosing PHI for the purpose of providing care or services. At HFHT the circle of care includes all team members (on a need-to-know basis only) in addition to locum physicians, consultants, students (medical, nursing or other), patients’ pharmacist, laboratory services, diagnostic and treatment services (technicians, physiotherapists, occupational therapists, dieticians and CCAC?) and Temiskaming Hospital. **Peter, this circle of care may be too broad. Any thoughts?**

Implied Consent

Implied consent assumes that a patient gives consent for collecting, using and disclosing PHI without directly being asked or providing consent. Therefore, PHIPA permits HFHT,

as health information custodian to assume implied consent where the information is exchanged between agents within the circle of care for the purpose of providing direct health care and services. The only exception is when the custodian is aware that a patient has expressly withheld or withdrawn his/her consent.

Expressed Consent

Expressed consent means directly asking a patient for consent to collect, use or disclose PHI. The consent may be verbal or written. Expressed consent is required for disclosure of PHI to an individual or organization outside the circle of care.

Policy

All team members (contract and employees) will demonstrate their awareness of the position taken on privacy by the Haileybury Family Health Team by respecting and adhering to all principles and procedures related to patient privacy.

Principles

HFHT has undertaken an extensive review of its practices relative to patient privacy. New practices have been implemented and former practices revised to ensure adequate compliance with PHIPA. These practices are based on the following 10 principles:

1. Identifying Purpose

HFHT has measures in place to identify and communicate the purposes of the collection of PHI.

The Statement of Privacy Practices (HFHT-05 (c)) is posted at both locations for public awareness. The Privacy Plan (HFHT-05) describes what measures have been taken to create and maintain a privacy-sensitive culture. The *Protecting Your Privacy* (HFHT-05 (d)) handout is available in the waiting areas to all patients.

PHI collected, used and/or disclosed includes patient contact information, billing information, medical history, diagnostic results, treatments plans and consultations.

HFHT uses this information and shares it only with those who need to know to:

- Provide direct care/services
- Communicate and consult with other team members
- Administer services
- Formulate statistical data
- Comply with legal and professional regulatory requirements

PHI is collected discriminately and is limited to the amount and type of information necessary to meet the above requirements.

2. Consent

HFHT considers implied consent being granted by patients by virtue of them taking the steps to seek care/services, that is, making and keeping an appointment. Patients may refuse or withdraw consent, or may place restrictions on their consent. Patients are made aware, by the physician, of any significant consequences that may result from withholding consent. Consent may be in two forms, either implied or expressed (see Definitions). The circumstances under which these two consents are used are described in the *Protecting Your Privacy* handout and Statement of Privacy Practices.

3. Limiting Collection

HFHT limits the collection of PHI to that which is necessary to provide, administer and communicate care based on a need-to-know basis. It is collected by fair and lawful means. Information collected includes:

Identifying Information

- Name
- Date of Birth
- Address
- Phone, fax and/or email
- Emergency contact information
- Provincial health card #
- Record of patient appointment times

Personal Health Information

- Historical health record
- Referral to specialists, other physicians or other health care providers
- Laboratory investigations
- Diagnostic investigations
- Prescriptions

4. Use, Disclosure and Retention

HFHT will not use or disclose PHI for purposes beyond what the patient has agreed to unless permitted or required by law (e.g., billing provincial health plans, reporting infectious diseases, reporting fitness to drive/fly, child/spousal/elder abuse or court order). Information is shared on a need-to-know basis amongst team members and with those individuals who comprise the circle of care.

Use

The purpose for which the above information is used is as follows:

- To maintain a permanent record of care and services provided
- To ensure continuity of care
- To communicate to other team members
- To meet professional colleges' and legal requirements
- To administer the care/services provided (appointment scheduling, billing practices, etc.)
- To demonstrate risk management and quality assurance practices

Disclosure

Disclosure of PHI to those beyond the circle of care requires expressed consent (written or verbal). Such disclosures include third party medical examinations and charts/chart summaries released to insurance companies.

Retention

Patient files are retained for 10 years after the last contact or 10 years after the patient would have reached 18 years of age. Archived files awaiting destruction are stored in a locked location.

5. Accountability

HFHT has designated the lead physician as Privacy Officer of HFHT to coordinate privacy activities, ensure compliance, respond to inquiries about privacy practices and respond to requests for access or correction of records. This privacy policy is reviewed with each new team member (contract or employee upon hiring by ??). All team members, locum physicians, students, custodians and others who may be exposed to PHI are to sign the Pledge of Confidentiality (HFHT-05 (b)) upon hiring or placement. They are also to be made aware of the importance of protecting patient privacy.

6. Accuracy

HFHT recognizes its responsibility to ensure that PHI is accurate, complete and current as is necessary for the purposes for which it is intended.

7. Safeguards

HFHT has taken the necessary measures to ensure that PHI is protected by safeguards appropriate to the sensitivity of the information as follows:

- All patient files are kept securely and retained for the prescribed period of time (see Use, Disclosure and Retention above).
- All electronic files are protected by multiple passwords and user authentication.

- The electronic system uses firewall and virus scanning software.
- Electronic files are backed-up daily.
- The server is maintained in a secure location in the main office with access by authorized persons only.
- Availability of specific electronic file-related features has been limited to those required to have such access. **Peter does this make sense? Is it clear?**
- Only those persons providing direct care to patients or having a need to know have access to patient files. These include physicians, locum physicians, nurse practitioners, registered nurses, social worker and support staff.
- The Pledge of Confidentiality is signed by all team members as an indication of their understanding of the importance of maintaining patient privacy and their commitment to comply with established principles.
- An identified lack of compliance by any team member is to be reported to Dr. Mark Churman, Privacy Officer. Consequences may range from a verbal warning to dismissal.
- Discretion is exercised when talking on the phone or discussing patients to minimize the possibility of sensitive information being overheard.
- Only name and phone number are left as messages when it is not possible to speak directly to a patient.
- Email is not used for external communication of PHI
- The fax machine is maintained in a secure and supervised location
- A cover sheet is to accompany all faxed documents to convey confidential information.
- Fax numbers are to be verified carefully.
- Mail is to be labeled with the correct name and address, and stamped 'CONFIDENTIAL'.
- All desks are to be cleared of confidential material at the end of each day. NOTE: Confidential material is any document displaying a patient's identity and/or any health-related information.
- Confidential material awaiting shredding is stored in a secure location.
- Access to main office areas is limited to team members
Rationale: Limiting access to team members will ensure that PHI is not inadvertently disclosed to those who are beyond the circle of care

8. Openness

HFHT provides patients with information about policies, procedures and practices relating to the management of PHI including what information is collected, used and/or disclosed by team members. The Statement of Privacy Practices and *Protecting Your Privacy* handout are available to all patients.

9. Individual Access

HFHT is prepared to respond to patient requests concerning the collection, use and disclosure of PHI, and to give access to that information. A patient's request to review his/her file may be made verbally or in writing to the lead physician. A response to the request is made within 2 business days. A team member is to be present when a patient reviews his/her file to

preserve the integrity of the file and to answer questions. Patients are able to challenge the accuracy and completeness of the information, and have it amended with physician approval. Patients may review their file by arranging such with any team member. A copy of the chart may be provided to the patient, if requested, at the current fee. File access may be denied if such a disclosure creates significant risk to the patient or another person, or if disclosure reveals information about another person who has not consented to the disclosure. In the latter case, every effort will be made to conceal sensitive information. If a patient views that access has been denied without cause, he/she has the right to file a complaint with the provincial Privacy Commissioner.

10. Challenging Compliance

HFHT is prepared to address challenges concerning compliance with any of the above principles. Concerns are to be directed to:

Dr. Mark Churman
Privacy Officer
Haileybury Family Health Team
Box 2010
Haileybury, ON P0J 1K0
Phone: 705-672-3371
Fax: 705-672-5900

or

Information and Privacy Commissioner of Ontario
2 Bloor St. E., Suite 1400
Toronto, ON M4W 1A8
Phone: 416-326-3333
Toll Free: 1-800-387-0073
Fax: 416-325-9195
www.ipc.on.ca

Resources

Simplifying Privacy: A Tool Kit for Long Term Care and Community Care, OANHSS, 2004 Edition, Woodbridge, Ontario

Your Health Information: Your Rights, Your Guide to the Personal Health Information Protection Act, 2004, The Information and Privacy Commissioner of Ontario, Toronto, ON