

**POLICY TITLE: Patient Privacy under PHIPA**

*Note: 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 the Personal Health Information Protection Act (PHIPA), and VFHT acts as the FHO's agent for purposes of PHIPA.*

**PURPOSE:**

The Family Health Team is dedicated to quality patient care and improving the health status of our communities. The Family Health Team is committed to protecting individual privacy and the confidentiality and security of the records of personal health information it holds.

**POLICY:**

The Family Health Team abides by the *Personal Health Information Protection Act* (2004).

The Family Health Team is responsible for the personal health information under its control and will in good faith endeavour to ensure that all personal health information will be kept private, confidential and secure.

Family Health Team employees, volunteers and other agents of the Family Health Team are accountable for maintaining confidentiality of all information collected, accessed or disclosed during and after their employment or professional contact. Employees and agents are authorized to use personal health information on a need to know basis only. Unauthorized access to personal health information unrelated to the individual's role at the Family Health Team will be subject to discipline up to and including termination, or an impact on or end to the relationship with the Family Health Team for those who are not employees or other agents.

All personal health information collected, used, accessed or disclosed is protected as referred to in the following interrelated principles.

**Principle 1 – Accountability for Personal Information**

The FHT is responsible for any personal health information in its possession including information that has been transferred to a third-party for processing.

The Executive Director oversees compliance with the policy, related procedures and legislation. The identity and contact information of this person is made known to the public.

**Principle 2 – Identifying Purposes for Collecting Personal Information**

Personal information related to patients is collected, used, disclosed and retained for:

- Direct patient care,
- Administration of the health care system,
- Risk management;
- Quality improvement and to improve the services provided by the Family Health Team;
- Research, teaching, statistics, fundraising, and
- To meet legal and regulatory requirements

Patients imply consent when they present for treatment and receive an explanation for the health services to be provided. Unless a new purpose is legally required, consent must be obtained before the information can be used. A patient's name and address is the only personal health information made available [to whom?] and will only be withheld with the patient's express request.

### **Principle 3 – Consent for Collection, Use and Disclosure of Personal Health Information**

The knowledge and consent of the individual is required for the collection, use or disclosure of personal information, except where inappropriate.

The FHT will inform its patients and clients and make reasonable effort, through reasonable means (i.e. signage, information brochures etc.), the purposes for which the FHT will use their personal information, which mirror the purposes for collection above.

Note: In certain circumstances personal health information can be collected, used, or disclosed without the knowledge and consent of the individual. For example, legal, medical, or security reasons may make it impossible or impractical to seek consent. When information is collected for detection and prevention of fraud or for law enforcement, obtaining consent may defeat the purpose of collecting the information. Obtaining consent may be impossible or inappropriate when the individual is a minor, seriously ill, or mentally incapacitated. In such instances, the Family Health Team follows the rules established under PHIPA, which include rules for consent, capacity and substitute decision-making; as well as rules to permit personal health information to be disclosed without consent to eliminate or reduce a significant risk of serious bodily harm.

Personal health information that has been collected for a purpose not previously identified will be made known prior to its use. Unless the new purpose is required by law, consent will be obtained prior to the use of the information.

### **Principle 4 – Limiting Collection of Personal Health Information**

The FHT will limit the amount and the type of information collected to that which is necessary to fulfill the purposes identified, on the need to know basis noted above and tied to the employee or agent's role at the FHT. All information will be collected by fair, lawful and indiscriminate means.

### **Principle 5 – Limiting Use, Disclosure, and Retention of Personal Health Information**

Personal health information will not be used or disclosed for purposes other than those for

which it was collected, except with the consent from the individual or as permitted or required by law, including PHIPA.

Personal health information will be retained only for as long as is necessary for the fulfillment of those purposes or as required by law or industry best practices (i.e. legislative requirements with respect to retention periods of records of personal health information)

#### **Principle 6 – Accuracy of Personal Health Information**

Personal information will be as accurate, complete and up-to-date as possible and as is necessary for the purposes for which it is intended.

#### **Principle 7 – Safeguards for Personal Information**

The FHT has security safeguards in place to protect personal health information against loss, theft, unauthorized access, disclosure, copying, use, or modification regardless of the format in which it is held. Care will be used in the disposal or destruction of personal information to prevent unauthorized persons gaining access to the information. These safeguards are administrative (policies and procedures, including signing of confidentiality policies and training); technical (secure electronic systems) and physical (such as locked doors and cabinets).

#### **Principle 8 – Openness about Privacy Policy**

The FHT makes available to its patients and clients, information regarding the policies and practices relating to the management of personal information in a format that is generally understandable. A patient brochure is made available.

#### **Principle 9 – Individual Access**

Upon request, an individual will be informed of the existence, use and disclosure of personal information and will be granted access to that information, unless the Executive Director deems that access to that information could be harmful to the patient or a third party. The FHT will also respond to requests for correction to these records in accordance with PHIPA.

#### **Principle 10 – Challenging Compliance with the Privacy Policy**

The Executive Director investigates all complaints. If a complaint is found to be justified, appropriate measures will be taken, including amending its policies and practices if necessary. The Executive Director can be reached at: [diana.noel@villagefht.ca](mailto:diana.noel@villagefht.ca) or by telephone at 416 599 8348 ext 8024.

Complaints may also be made directly to the Information and Privacy Commissioner/Ontario:

Information and Privacy Commissioner/Ontario  
2 Bloor St. East Suite 1400  
Toronto, ON M4W 1A8  
(416) 326 3333

## **PROCEDURE:**

**Personal Health Information** is “identifying” information about an individual’s health or health care history. It includes:

- The individual’s physical or mental health, including family history
- The provision of health care to the individual
- Long-term care services
- The individual’s health card number
- Blood or body part donations
- Payment of eligibility for health care
- The identity of a health care provider or a substitute decision maker for the individual.

**A health information custodian (HIC)** is an individual or organization that, as a result of their power or duties, has custody or control of personal health information.

Examples of health information custodians include:

- Health care practitioners (family physicians, nurses, social workers, dietitians, etc)
- Hospitals, including psychiatric facilities
- Pharmacies
- Laboratories
- Nursing homes, retirement homes and long term care facilities
- Community Care Access Centres
- Ambulance services
- Ministry of Health and Long Term Care

The **Circle of Care** is not a defined term under PHIPA. It is a term of reference used to describe health information custodians and their authorized agents who are permitted to rely on an individual’s implied consent when collecting, using, disclosing or handling personal health information for the purpose of providing direct health care.

In a Family Health Team, the circle of care can include:

- Physicians
- Nurses
- Specialist or other health care providers
- Health care professionals selected by the patient (eg pharmacist)

## **Consent**

**Express consent** may be given verbally, in writing or by electronic means (if it is provided verbally, it should be documented in the patient’s health record).

**Implied consent** permits a health information custodian to infer from the surrounding circumstances that an individual would reasonably agree to the collection, use or disclosure of his/her personal health information. Under PHIPA, Village Family Health Team also implies consent when it is provided personal health information either by the patient or client, that person's substitute decision-maker, or another health practitioner.

Express consent is always required in certain circumstances.

- E.g., for disclosure of personal health information to an individual or organization that is not a health information custodian and is outside the circle of care (eg. insurance company)
- When information is disclosed by one custodian to another for a purpose other than providing or assisting in providing health care
- When a health information custodian provides information other than name and address for marketing, fundraising, or research purposes.

### **What are the implications of PHIPA for a Family Health Team?**

1. Unless the patient has withdrawn his/her implied consent under PHIPA, personal health information may be sent to a specialist, and returned to the primary care provider without patient consent. This is considered to be transfer of information within the circle of care and consistent with good clinical care
2. The FHT must request and receive express consent before providing personal health information to anyone outside of the circle of care – eg. insurance companies, employers, unless PHIPA specifically permits the information to be used by the FHT, or disclosed outside the FHT without consent. **[Note to draft: the list of permitted uses and disclosures without consent under PHIPA is very, very long]**
3. FHT staff must not provide personal health information to anyone other than the patient without express consent of the patient. This includes the provision of information to family members, unless a family member is acting as substitute decision-maker for the patient or under other limited circumstances under PHIPA.
4. Staff must use their best efforts to protect patient confidentiality. Records should be protected, computer screens should not be visible to patients or visitors, conversations should be kept private, and information that is overhead **[Note to draft: what is "overhead"?)** must be protected.
5. Employees must not access patient records unless required for treatment or care purposes. Unauthorized access, outside the employee's role at the FHT, or without patient consent where PHIPA requires it, is cause for disciplinary action, up to and including dismissal.

### **RELEVANT LINK(S):**

[Personal Health Information Protection Act 2004](#)