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Name: HPEI Access, Disclosure and Correction of Personal Health Information Protocol

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Date/Time Generated: Aug 18, 2023 16:14

Generated By: health\cglllewellyn

Policy and Procedures Manual
Operational/Clinical Protocol

ACCESS, DISCLOSURE AND CORRECTION OF PERSONAL HEALTH INFORMATION

Health PEI		PROTOCOL
Applies To:	All Health PEI healthcare workers	
Monitoring:	Privacy Officer	
Approving Authority:	Chief Performance and Innovation Officer	
Date:	Effective: November 2020 Next Review: July 2025	
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1.0 PROTOCOL

- 1.1 Health PEI responds to requests for access, disclosure or correction of personal health information (PHI) in compliance with the [Health Information Act](#) and in accordance with the procedures outlined in this protocol.
- 1.2 Individuals have a legal right of access to their own PHI.
- 1.3 Substitute decision makers (SDMs) may be authorized to access PHI and/or consent to the disclosure of PHI belonging to another living individual, with appropriate verification (as outlined in section [5.3 Verifying authority to access PHI](#)), if they are:
 - (a) a person with written authorization from the individual to provide consent;
 - (b) (in order of priority) the individual’s guardian, spouse, adult child, parent, adult sibling or adult next of kin;
 - (c) the individual’s health care provider; or
 - (d) the Public Guardian.
- 1.4 SDMs may be authorized to access PHI and/or consent to the disclosure of PHI on behalf of a deceased individual, with appropriate verification (as outlined in section [5.3 Verifying authority to access PHI](#)), if they are:
 - (a) the executor or administrator of the individual’s estate; or
 - (b) (in order of priority) the individual’s spouse, adult child, parent, sibling, or any other adult next of kin.
- 1.5 Mature minors (between the ages of 13 and 17 years) may have the right to access their own PHI and/or to consent to the disclosure of their own PHI without consent from their

parent/guardian with appropriate verification (as outlined in section [5.3 Verifying authority to access PHI](#)). The ability to consent is not defined by a specific age and is based on the minor's capacity to understand the PHI and the consequences of giving or withholding consent.

- 1.6 Healthcare workers shall respond to a request for access to PHI within thirty (30) days of receiving the request.
- 1.7 Healthcare workers shall consult with the Privacy Officer if additional time is required to respond to a request **and** when any of the following criteria are met:
 - (a) more information is required from the individual/requester to locate the PHI,
 - (b) a large volume of records is requested, or
 - (c) consultation with another health care provider prior to release of PHI is required.
- 1.8 Healthcare workers shall advise the individual/requestor in writing if the time limit to respond has been extended, with the notice to include:
 - (a) the reason for the extension
 - (b) when a response can be expected, and
 - (c) that the individual making the request may file a complaint with the Commissioner regarding the extension.
- 1.9 Healthcare workers shall consult with the Privacy Officer if they wish to refuse to grant access to PHI **and** when any of the following criteria are met:
 - (a) if, in the opinion of the health care provider, knowledge of the PHI could reasonably be expected to harm the individual or another person,
 - (b) if disclosure of the PHI would identify a third party who supplied PHI in confidence,
 - (c) if the PHI is protected by legal privilege (i.e., solicitor-client or litigation privilege), or
 - (d) if disclosure of the PHI is prohibited by another law (for example, information that is protected by the *Child Protection Act* or *Adult Protection Act*).
- 1.10 Health PEI psychiatrists who wish to refuse access to PHI relating to care provided in a psychiatric facility must make an application to the Mental Health Review Board, as required by the [Mental Health Act](#).
- 1.11 Healthcare workers shall inform the individual/requester **in writing** where access to PHI is refused and provide the reason for the refusal. The notice must also advise the individual/requestor that they may make a complaint to the Commissioner regarding the refusal of access.
- 1.12 Individuals have a legal right to request that Health PEI waive fees charged for receiving a copy of their PHI.
- 1.13 Healthcare workers shall charge fees for preparing PHI, if applicable, and respond to requests to waive fees in accordance with procedures outlined in section [5.4 Preparing PHI for release \(access or disclosure\)](#).
- 1.14 Healthcare workers shall release the minimum amount of PHI necessary to achieve the purpose of the access or disclosure. An individual requesting access to PHI is not

required to provide a reason for the access; however, it is reasonable for the healthcare worker to discuss what specific information or type of information will meet the purpose of the request.

- 1.15 Individuals have a legal right to **request** correction of their own PHI that they believe is inaccurate or incomplete.
- 1.16 Health PEI assesses requests to correct PHI to ensure the criteria established in the [Health Information Act](#) for correction are met. The Privacy Officer is responsible for completing this assessment.
- 1.17 Healthcare workers shall disclose PHI to external parties, such as law firms and insurance companies, as requested and authorized by individuals, in accordance with the procedures outlined in section [5.5 Disclosing PHI to external parties \(law firms, insurance companies, etc.\)](#).
- 1.18 Healthcare workers shall disclose PHI to Workers Compensation Boards as required to support worker claims but must ensure only the minimum amount of PHI is disclosed to meet the specific request.
- 1.19 Healthcare workers shall disclose PHI to Child Protective Services, Adult Protection and the Office of the Child & Youth Advocate, upon request. These external parties have authority to require Health PEI to disclose PHI without the consent of the individual by their respective legislation. For these requests, healthcare workers shall **not** attempt to obtain consent from the individuals.

2.0 DEFINITIONS

Access:	An individual obtaining a copy of a health record belonging to themselves or to a person whose information they have authority to access.
Disclosure:	The release of information, i.e. a copy of a health record, by Health PEI healthcare workers to an external party at the request of and with the consent of the individual to whom the information belongs. Examples include sending a copy of a chart to a lawyer or insurance company at the request of the individual.
Healthcare workers:	All persons involved in providing care and/or services within Health PEI facilities and programs, which includes all employees (casual, permanent, temporary, full-time and part-time employees), physicians (salaried, fee-for-service, contract and locum), students, volunteers and contract workers.
Individual:	The person (patient, client or resident) whose personal health information is being accessed, disclosed or corrected, and includes both living and deceased persons.

Personal health information (“PHI”):	As defined in the Health Information Act , identifying information about an individual in oral or recorded form that includes but is not limited to information related to: <ul style="list-style-type: none"> – the individual’s physical or mental health, family history or genetic information; – the provision of health care to the individual; – a drug, device or product provided to the individual by prescription or other authorization of a health care provider; – payments or eligibility for health care; – donation of any body part or bodily substance; or – the identity of the individual’s substitute decision maker or health care provider.
Privacy Officer:	The Director of Privacy and Information Management serves as Privacy Officer for Health PEI. The Director may delegate or assign duties to the Access to Information and Privacy Consultant(s).
Psychiatric Facility:	As defined in the Mental Health Act , a facility that is designated by regulation for the examination, care and treatment of persons who suffer from mental disorder. This would include addiction treatment facilities.
Record:	As defined in the Health Information Act , a record containing information in any form, including information that is oral, written, photographed, recorded or stored in any manner, on any storage medium or by graphic, electronic, mechanical or any other means, but does not include electronic software or any mechanism that produces records.
Third party information:	Information in a record, including PHI or other personal information, about a person other than the individual to whom the record belongs, but not including names of staff or other health care providers. Examples include personal information about the individual’s family members or about other patients, clients or residents.

3.0 PURPOSE/SCOPE

- 3.1 The purpose of this protocol is to establish consistent processes for receiving and responding to requests for access, disclosure or correction of PHI received by Health PEI.
- 3.2 The scope of this protocol includes all requests for access, disclosure or correction of PHI in the custody or control of Health PEI.
- 3.3 The scope of this protocol does **not** include requests for access, disclosure or correction of:
- (a) de-identified information or aggregate data,
 - (b) personal information, as defined in the [Freedom of Information and Protection of Privacy Act](#), that is not related to an individual’s health or the provision of care to the individual, including employment, financial or educational history information (Requests for access, disclosure or correction of personal information should be directed to the Privacy Officer), and

- (c) standardized tests, including intelligence tests, or a record that contains raw data from a standardized test or assessment.

4.0 APPLICATION

This protocol applies to all Health PEI healthcare workers.

5.0 FUNCTIONALITY/PROCESS

5.1 Making a request for access to PHI

Individuals/requestors – patients, clients, residents, SDMs:

- (a) Make a request to review or receive a copy of PHI.
- (b) Request access to their PHI directly from the facility, program or service that holds the record (i.e., Health Records department of a hospital, primary care health centre, public health program site, etc.).

5.2 Accepting/receiving a request to access PHI

Healthcare workers:

- (a) Document all requests for access to PHI and subsequent disclosures, either on a form signed by the individual/requester or by documenting the request in the individual's chart. The following form is recommended:
 - (i) Request to Access or Disclose Personal Health Information (Appendix A)
- (b) Accept a request to access PHI verbally and document it on the appropriate form if the individual/requester is unable to complete the written form.
- (c) Redirect requests to access PHI to Post Adoption Services (Department of Social Development and Seniors) if healthcare workers have reason to believe that the request is for the purposes of obtaining information about an adoption (i.e., the individual's birth record or records of a birth parent).
- (d) Inform the individual/requester in writing if the requested PHI does not exist or cannot be found.
- (e) Offer to review PHI with the individual/requester rather than provide a copy, **if applicable**, but must comply if the individual/requester requests to receive a copy of the PHI.
- (f) Take reasonable steps to provide access at the location where a request is received. For clarity, if a request for access to PHI in the Clinical Information System is received at a hospital other than the hospital where the PHI was collected, healthcare workers:
 - (i) provide access at the location where the request is received, if possible,
 - (ii) advise the individual/requester that a paper chart may also exist that must be requested at the originating hospital,
 - (iii) keep a record of the access and provide a copy of the request to the originating hospital, and
 - (iv) redirect the request to the originating hospital if the request is for a full copy of the patient record.

5.3 Verifying authority to access PHI

Healthcare workers:

- (a) Verify the identity of the individual requesting their own PHI by checking identification (ID) as follows at the time of access:
 - (i) Provincial Health Card, and
 - one (1) piece of photo ID (i.e., driver’s license, passport, identification card), or
 - in the absence of a photo ID: one (1) additional piece of government-issued ID without a photo that identifies date of birth (i.e. birth certificate, marriage certificate).
- (b) Check the photo ID of the parent/guardian and the Provincial Health Card of the child, if access to a child’s record (under the age of 13 years) is requested by a parent/guardian. For mature minors (aged 13 to 17 years), see sub-sections (h), (i) and (j) below.
- (c) Verify the authority of an SDM to access PHI and/or consent to the disclosure of PHI belonging to another individual, by taking the following steps;
 - (i) inquiring if the individual whom the PHI is about can provide consent for the disclosure,
 - (ii) reviewing the individual’s chart for any documentation of incapacity and /or documentation of the individual’s SDM, as appropriate,
 - (iii) requesting documentation from the SDM (i.e., copy of will, copy of Health Care Directive, marriage, birth or death certificate, as applicable); or
 - (iv) consultation with the Privacy Officer, if required.
- (d) Check the photo ID of the SDM, if access to an individual’s record is requested by the SDM.
- (e) Respect the order of priority for SDMs listed in sections 1.3 and 1.4 above, where possible. For example, if a request is received for PHI belonging to a deceased individual from the individual’s sibling, healthcare workers may inquire if the individual had a spouse or child who could provide consent for the disclosure.
- (f) Use alternate methods to verify identity if the individual does not have any of the identification pieces listed above. This may include asking the individual to answer several questions related to information documented in their record (i.e., Who is your family doctor, when was your last admission to hospital, etc.).
- (g) Ensure that copies of the appropriate ID as outlined above are included or obtained with requests received via telephone, fax or email.
- (h) Respect the right of mature minors (an individual between the ages of 13 and 17 years) to access their own PHI and/or consent to the disclosure of their own PHI, if:
 - (i) Their parent/guardian has co-signed the Request for Access or Disclosure of PHI (Appendix A), **or**
 - (ii) A health care provider involved in the care of the minor has assessed, confirmed and documented the mature minor’s capacity to access their PHI and/or consent to the disclosure of their PHI on their own behalf and has co-signed the Request for Access or Disclosure of PHI (Appendix A). ***see exception for inpatient mental health PHI in (j) below***

- (i) Respect the right to privacy of mature minors (an individual between the ages of 13 and 17 years) when their PHI is requested by a parent/guardian by:
 - (i) Encouraging the parent/guardian to have the mature minor to co-sign the Request for Access or Disclosure of PHI (Appendix A), **or**
 - (ii) Consulting with a health care provider who is involved in the care of the mature minor so determine if there may be reason to withhold the information from the parent/guardian, if applicable. ***see exception for inpatient mental health PHI in (j) below***
- (j) Ensure compliance with the [*Mental Health Act*](#) when processing requests for PHI belonging to a minor that was collected by a psychiatric facility, which specifies that the patient must have reached the age of majority (18 years old) in order to access or consent to the disclosure of their PHI.

5.4 **Preparing PHI for release (access or disclosure)**

Healthcare workers:

- (a) Provide individuals/requestors with **copies** of the PHI. The original documentation must remain in the custody and control of Health PEI.
- (b) Review the records to identify and redact any third party information prior to release and:
 - (i) Redact third party information using a method that prevents the re-identification of the information and makes it clear that information has been redacted.
 - (ii) Apply redactions using a black marker on the printed records and providing a photocopied version of the records with redaction to the requester. Alternately, use electronic software products that have redaction function, including Adobe Professional, to prepare a redacted copy of the PHI for printing.
 - (iii) Avoid using correction tape as a method of redaction.
- (c) Ensure that standardized tests, including intelligence tests, or records that contain raw data from a standardized test or assessments are not included in any documentation prepared for release.
- (d) Keep a record of all accesses and disclosures of PHI, which will include the name of the person or external party to whom the PHI was provided, the date and a description of the PHI that was released. A completed request form can serve as the record of access or disclosure.
- (e) Send PHI securely when using mail or courier services, by:
 - (i) ensuring the envelope is properly sealed and includes a return address,
 - (ii) verifying that the mailing address is accurate and complete,
 - (iii) placing a label on the envelope stating CONFIDENTIAL – IF UNDELIVERABLE, RETURN TO SENDER, and
 - (iv) ensuring no PHI is visible on or through the envelope.
- (f) Use a secure file transfer platform approved by Information Technology Shared Services (“ITSS”) when sending PHI to the individual or an external party electronically.

- (g) Obtain an acknowledgement of risks of electronic transmission from the individual before sending PHI by email. See section 6 of the Request to Access or Disclose Personal Health Information form (Appendix A).
- (h) Send PHI securely when using faxing, by:
 - (i) using e-faxing or a fax machine that supports encryption (if available),
 - (ii) verifying the fax number prior to sending,
 - (iii) using a fax cover sheet that includes a privacy statement, and
 - (iv) confirming receipt by the intended recipient.
- (i) Charge fees to the individual or requester for the cost of producing a copy of the PHI, if applicable and only to the maximum amounts permitted in the [Health Information Act General Regulations](#) (i.e. \$0.25 per page).
- (j) Direct requests from individuals to waive the fees for receiving a copy of their PHI to the Director, Administrator or person with authority to make the decision to waive all, some or none the fee.

5.5 **Disclosing PHI to external parties (law firms, insurance companies, etc.)**

Healthcare workers:

- (a) Accept consent for disclosure of an individual's PHI provided by an external party (e.g. law firm or insurance company), if the consent includes the following:
 - (i) the signature of the individual whose PHI is requested, or their SDM, where applicable,
 - (ii) a minimum of two (2) identifiers for the individual (i.e. full name plus provincial health card number or date of birth),
 - (iii) a description of the PHI that is to be disclosed, and
 - (iv) identification of the external party to whom the PHI may be disclosed.
- (b) Obtain a new signed consent form for each disclosure of PHI; however, a consent can be considered valid for up to 12 months if ongoing or multiple disclosures of the same individual's PHI to the same external party are expected.
- (c) Follow the steps in section [5.4 Preparing PHI for release \(access or disclosure\)](#) above.

5.6 **Accepting requests to correct PHI**

Healthcare workers:

- (a) Provide individuals with the Request to Correct Personal Health Information form (Appendix B) and/or the link to submit a request to correct online at the Prince Edward Island government website ([Request a Correction to Personal Health Information](#)).
- (b) Accept a request to correct PHI verbally and document it on the appropriate form, if the individual or requester is unable to complete the written form.
- (c) Forward or direct all requests for correction of PHI to the Privacy Officer.

6.0 MONITORING

- 6.1 The Health PEI Privacy Officer is responsible for ensuring this protocol is reviewed every two years according to Health PEI's policy review cycle and standards.
- 6.2 The Privacy Officer shall generally monitor compliance with this protocol through review of issues or concerns raised by healthcare workers and/or individuals.

7.0 REFERENCES**Related Documents**

[Health Information Act](#)

Health PEI Privacy and Protection of Personal Health Information Policy

[Mental Health Act](#)

References

Canadian Medical Protective Association, accessed March 9, 2023, *Responding to Requests for Children's Medical Records* (<https://www.cmpa-acpm.ca/en/advice-publications/browse-articles/2005/responding-to-requests-for-children-s-medical-records>)

Canadian Medical Protective Association, accessed March 9, 2023, *Family Disputes and the Physician: Staying Focused on Safe Care* (<https://www.cmpa-acpm.ca/en/advice-publications/browse-articles/2016/family-disputes-and-the-physician-staying-focused-on-safe-care>)

Canadian Medical Protective Association, accessed March 9, 2023, *Releasing a Patient's Personal Health Information: What are the Obligations of the Physician?* (<https://www.cmpa-acpm.ca/en/advice-publications/browse-articles/2012/releasing-a-patient-s-personal-health-information-what-are-the-obligations-of-the-physician>)

Canadian Medical Protective Association, accessed March 9, 2023, *Consent: A guide for Canadian Physicians* (<https://www.cmpa-acpm.ca/en/advice-publications/handbooks/consent-a-guide-for-canadian-physicians>)

Appendices

[Appendix A – Request to Access or Disclose Personal Health Information](#)

[Appendix B – Request to Correct Personal Health Information](#)

8.0 STAKEHOLDER REVIEW

Group/Committee	Dates of Review
N/A	

9.0 REVIEW HISTORY

Review Dates: July 2023 _____

Request to Access or Disclose Personal Health Information

Program or Facility contact information:	
Address:	
Phone:	Fax:
Email:	

Guide to Completing a Request to Access or Disclose Personal Health Information

Personal information on this form is collected under authority of Prince Edward Island’s *Freedom of Information and Protection of Privacy Act* and *Health Information Act*, and it will be used to respond to your request. If you have questions regarding your personal health information and privacy, visit www.healthpei.ca/yourprivacy or speak with your health care provider.

Complete the following Request to Access or Disclose Personal Health Information form and return to the Health PEI location to which you wish to make the request.

Please note the following information;

1. All requests for access require a clear copy of valid identification (ID);
 - Provincial Health Card and
 - one (1) piece of photo ID (*i.e. driver’s license, passport, identification card*) *or*
 - in the absence of a photo ID; one (1) additional piece of government-issued ID without a photo that identifies date of birth (*i.e. birth certificate, marriage certificate*)
2. A fee for preparing the information may be required, depending on number of pages and record format (*i.e. paper, electronic or fax*).
3. If you have questions or concerns regarding the personal health information that you have received, please contact your health care provider.
4. It is the responsibility of the person making the request to ensure all information provided is correct (*i.e. Mailing address, fax number, email, etc.*).
5. The location to which you submit a **Request to Access or Disclose Personal Health Information** will only be able to provide you with the records that they are able to access. There may be other records in existence at other locations. In this situation, you can submit your request to multiple locations.
6. Please complete all of the boxes on the form as appropriate, providing as much detail about what information you are requesting helps to ensure you receive the documentation you are requesting.

Information regarding Substitute Decision Makers

Prince Edward Island’s *Health Information Act* identifies who can act as a substitute decision maker and request access to another individual’s information. Substitute decision makers can include:

- (a) a person who has been authorized, in writing, by the individual to provide consent;
- (b) the individual’s personal representative, if the individual is deceased (*i.e. executor or administrator of the individual’s estate or person given authority in a Health Care Directive, etc.*);
- (b) the individual’s guardian, spouse, adult child, parent, adult sibling, or any other adult next of kin of the individual; *or*
- (h) the individual’s health care provider.

Please note that documentation is required as proof of authority to act as a substitute decision maker.

Health PEI

Santé Î.-P.-É.

Request to Access or Disclose Personal Health Information

1. About You (the person whose information is being requested)		
Last name:	First name:	
Date of Birth (YYYY/MM/DD):	Personal Health Number:	
Mailing address:		
City or Town	Province	Postal code
Telephone number:	Email address:	
2. About your request		
Whose information do you want to access?		
<input type="checkbox"/> My own personal health information		
<input type="checkbox"/> Another person's personal health information (See guide re: <i>Substitute decision makers</i> and attach proof that you can legally act for this person.)		
<input type="checkbox"/> I authorize the information be released to the following external party: _____ (Contact information for external party must be completed in Question 6).		
3. About the Substitute Decision-maker (if requesting another person's health information)		
Last name:	First name:	
Relationship to individual whose personal health information is being requested:		
4. Which Health PEI facility, program or service are you making the request to? (Please be as specific as possible and include the site/program name and location)		
5. About the information you want to access		
What specific personal health information are you requesting to access? (Please be as specific as possible about the records (i.e. Discharge summary, physician's office chart, report, test results, immunization records, etc.) and include dates or time frames)		
Records requested:	Timeframe:	
6. What format are you looking to have your information sent to you in?		
<input type="checkbox"/> I will pick up the printed documents at the location requested.		
<input type="checkbox"/> Please mail the printed documents (specify exact mailing address to send documents, including street address, city/town, province and postal code): _____		
<input type="checkbox"/> Please fax the documents (specify fax # including area code) _____		
<input type="checkbox"/> Email the documents (specify email address – print clearly and complete the acknowledgement below) _____		
**If requesting to receive information by email, please read and sign the following acknowledgment of risk:		
I _____ (print name), understand that there are risks associated with sending personal information to a private, unsecured email address, including a risk that my information could be accessed by someone else in transit. I accept the risk and request that Health PEI send my personal information to me at the email address I have provided.		
Signature: _____ Date: _____		
<input type="checkbox"/> Alternative method requested: Please specify _____		
7. Your Signature		
Signature:	Date:	
Health Care Provider consulted (if applicable):	Date:	
For office use only		
Date received (YYYY/MM/DD):	Request number:	
Request Received by:	Location:	
Information Released by:	Date released (YYYY/MM/DD):	

Appendix B – Request to Correct Personal Health Information

Request to Correct Personal Health Information

Personal information on this form is collected under authority of Prince Edward Island's *Freedom of Information and Protection of Privacy Act* and *Health Information Act*, and will be used to respond to your request. Please complete and return to: Access to Information and Privacy Team, 16 Garfield Street, PO Box 2000, Charlottetown, PE C1A 7N8

About You

Last name:		First name:	
Date of Birth (YYYY/MM/DD):		Personal Health Number:	
Mailing address:			
City or Town:	Province:	Postal code:	
Telephone number:	Email address:		

About your request

1. Whose information do you want to correct?

- Your own personal health information
 Another person's personal health information (Please attach proof that you can legally act for this person.)

About the Substitute Decision-maker (if requesting to correct another person's health information)

Last name:		First name:	
Mailing address:			
City or Town:	Province:	Postal code:	
Telephone number:	Email address:		

2. To which Health PEI facility, program or service are you making the request?

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About the information you want to correct

3. What personal health information needs to be corrected? (Please give as much detail as possible.)

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4. What correction do you want to make and why? (Please attach any documents that support your request.)

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Your Signature

Signature:	Date:
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For office use only

Date received:	Request number:
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For questions or more information, contact: (902) 569-7734 or healthprivacy@ihis.org