

<b>POLICY/PROCEDURE NAME:</b> Access, Corrections and Disclosure of Personal Health Information	<b>NUMBER:</b> 2a-0002
<b>MANUAL (SECTION):</b> Programs and Services (Overall)	<b>POLICY OWNER (IF DIFFERENT FROM MANUAL OWNER):</b> Executive Director
<b>OTHER RELEVANT P&amp;P'S:</b> 2a-0001 Consent to the Collection, Use and Disclosure of Personal Health Information  1b-0001 Privacy and Confidentiality at Hospice Peterborough	<b>HOW OFTEN REVIEWED:</b> Every two years unless there are legislated or significant practice changes.
<b>DATE OF ORIGINAL:</b> December 7, 2018	<b>APPROVED BY:</b> Executive Director
<b>DATES REVISED:</b> n/a	<b>LAST REVIEWED:</b> n/a

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**POLICY**

Statement

Clients of Hospice Peterborough have the right to access, correct and disclose their personal health information subject to applicable legislation.

Hospice Peterborough may deny access, corrections or disclosure of personal health information as outlined in the Personal Health Information and Protection Act.

**DEFINITIONS**

Personal health information: Identifying information about an individual in oral or recorded form, if the information relates to:

- a) The physical or mental health of the individual, including information that consists of the health history of the individual’s family;
- b) The providing of health care to the individual, including the identification of a person as a provider of health care to the individual;
- c) An individual’s plan of care and service within the meaning of the Home Care and Community Services Act, 1994 for the individual;
- d) Payments or eligibility for health care, or eligibility for coverage for health care, in respect of the individual;
- e) The donation of any body part or bodily substance of the individual, or is derived from the testing or examination of such body part or bodily substance;
- f) An individual’s health number;
- g) An individual’s substitute decision-maker.<sup>1</sup>

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<sup>1</sup> Definitions a) through g) quoted from Section 4 (1) of PHIPA

Disclosure: Access to personal health information by individuals other than the client or client's substitute decision maker (SDM).

## **PROCEDURE**

Clients (or the client's SDM) of Hospice Peterborough have a right to access their record. Hospice Peterborough staff will discuss the client's concerns. Should the client/SDM wish to review their record, a Client/SDM Request for Release of Personal Health Information Form must be completed then staff will consult with the Privacy Officer and/or manager to ensure timely follow-up.

The completed Client/SDM Request for Release of Personal Health Information Form and access (if granted) is documented in the health record.

A Hospice staff member shall be present with the client while viewing the record to ensure the integrity of the record. A family member or friend may also view the medical record with the client's consent.

Should a Hospice client or their SDM request corrections to basic demographic information that has been incorrectly recorded by Hospice, the staff member can make the change. If the Hospice client or their SDM request other corrections or copies of their record the request will be referred to the Privacy Officer.

Individuals other than the client or the client's SDM who contact Hospice Peterborough to request access, corrections or disclosure of a client's personal health information will be directed to the Privacy Officer.

The Privacy Officer will acknowledge an individual's request for access, correction or disclosure of records of personal health information within ten business days.

The Privacy Officer will fulfill the request for access, correction or disclosure within thirty calendar days of receipt of the request if there are no grounds for denying the request.

The Privacy Officer will correct or amend an individual's records of personal health information if the individual has sufficiently demonstrated that the records are inaccurate or incomplete.

The Privacy Officer will provide an individual with a reason for denying request for access or correction if it is determined that denial is warranted, and is authorized under PHIPA.

The Privacy Officer will record or document an individual's disagreement regarding the denial of their request for access or correction to personal health information.

Using the Personal Health Information Request Log, the Privacy Officer will record receipt of and response to all access, correction and disclosure requests.

Clients of Hospice Peterborough will be informed that if they are not satisfied with Hospice Peterborough's response that they can contact the Office of the Information and Privacy Commissioner of Ontario.

### Release of Client's Health Information - Police

Client information will be released to the police only upon receipt of the proper consent from the client or upon receipt of a court order (i.e., subpoena, warrant to search). See Appendix 1.

Hospice may disclose personal health information about a client to the police:

- With the express consent of the client;
- For the purpose of complying with a warrant or facilitating an investigation where the police are carrying out an investigation that is authorized by the warrant or by or under an Act of Ontario or Canada;
- For a proceeding (i.e. under the rules of a court, a tribunal, a commission);
- And where permitted by law:
  - For the purpose of contacting a relative, friend, or potential SDM of the client; if the client is injured, incapacitated, or ill and unable to give consent personally to the disclosure of personal health information;
  - About a deceased person in order to identify the individual or, where reasonable in the circumstances, to inform the police of the fact of death and the circumstances of death;
  - Where there are reasonable grounds to believe that the disclosure is necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm to a person or group of person.

#### Release of Client's Health Information - Relatives

No information is to be released to relatives of a client, unless they are the SDM and the client is incapable. Clients or their SDM may determine who can receive client health information.

#### Release of Client Health Information - Statement of Claim or Legal Action Against Hospice or its Employees

The client's solicitors may receive copies from the client's medical record upon receipt of an authorized Consent to Disclose Personal Health Information Form from the client or legal representative. A subpoena, warrant, writ or summons is a court order and must be complied with. See Appendix 2.

#### **FORMS, TOOLS & PROTOCOLS**

- [Privacy Officer Job Description](#)
- [Personal Health Information Request Log \(Tool\)](#)
- [Request to Access Personal Health Information Form](#)
- [Consent to Disclose Personal Health Information Form](#)

#### **POLICY COMMUNICATION PLAN**

This policy is included in orientations for staff, volunteers, contractors and third party service providers and in annual refresher training.

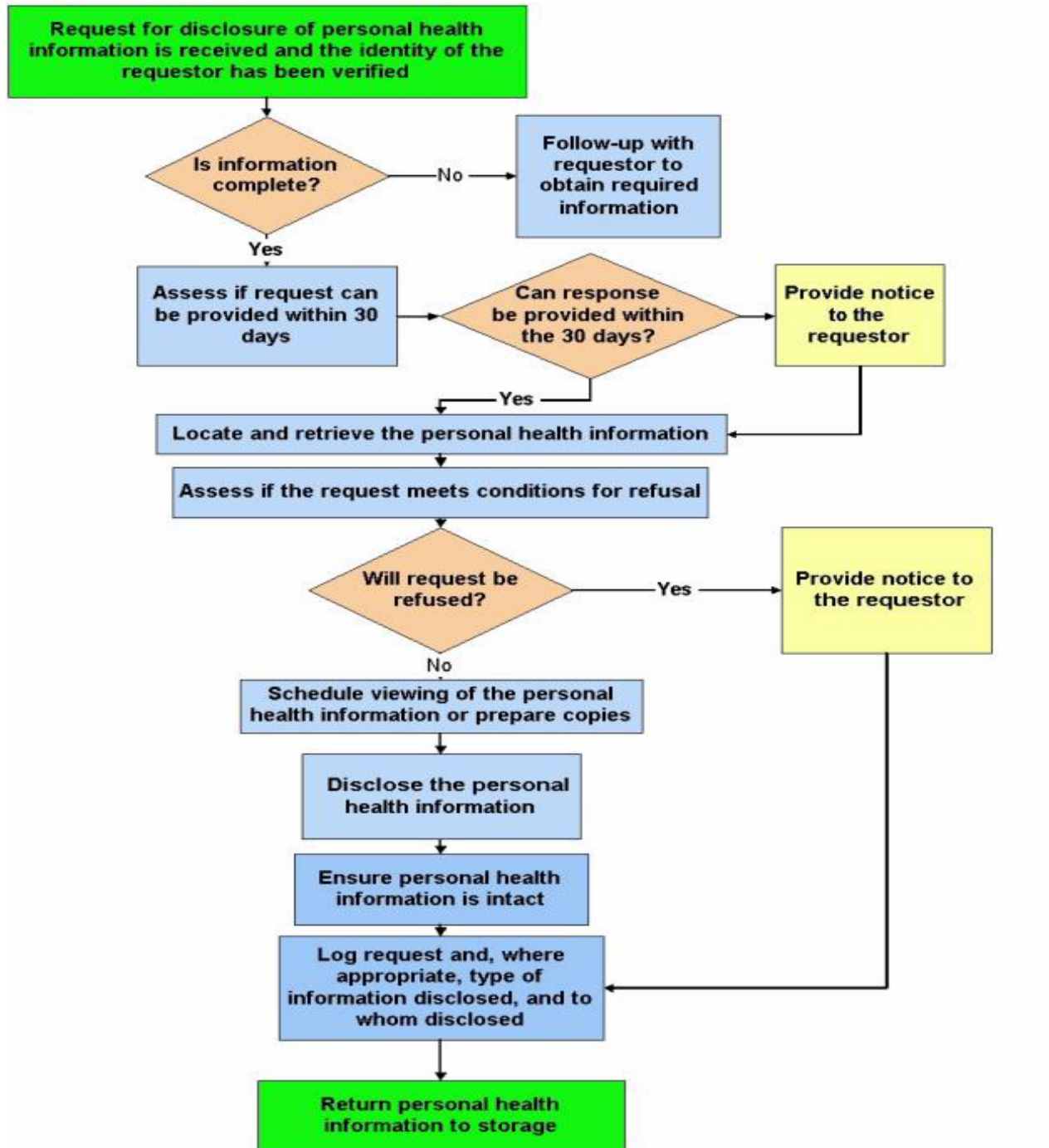
#### **REFERENCES (e.g. research, legislation, organizations)**

Policy 2.B.040 - Patient Confidentiality Release of Information (Peterborough Regional Health Centre; Effective Date: May 2, 2007; Most Recent Date Revised: November 2016)

**POLICY REVIEW DETAILS**

To ensure compliance and to identify any needed revisions, the Policy Manual Owner or designate will review this policy every two years unless there is legislated or significant practice changes.

**Appendix 1: Flow Chart for Release of Client's Health Information to Police**  
(From: Peterborough Regional Health Centre Policy 2.B.040)



**Appendix 2: Mandatory Disclosure** (From: Peterborough Regional Health Centre Policy 2.B.040)

The following chart was developed by the hospital sector and its partners in order to give an overview of when personal health information may be disclosed without consent under PHIPA. This is a starting point for understanding the many disclosures without consent that PHIPA allows; however, the list is not exhaustive and you should consult the Act for further detail.

The Act specifically permits the disclosure of personal health information for a number of purposes as required by other statutes. Consent is not required for these specific purposes. For example, you are required to provide the following information:

TO WHOM DISCLOSURE MUST BE MADE	WHAT INFORMATION MUST BE DISCLOSED	AUTHORITY
Aviation Medical Advisor (note this is a mandatory disclosure for a physician, not for a hospital)	Information about flight crew members, air traffic controllers or other aviation license holders who have a condition that may impact their ability to perform their job in a safe manner.	Aeronautics Act
College of a regulated health care professional	A written report within 30 days regarding revocation, suspension, termination, or dissolution of a health care professionals privileges, employment or practice for reasons of professional misconduct, incapacity or incompetence.	Regulated Health Professions Act
College of Physicians and Surgeons of Ontario	Information about the care or treatment of a patient by the physician under investigation.	Public Hospitals Act. <b>Notice must be given to the Chief of Staff and the Administrator of the Hospital.</b>
Coroner or designated Police Officer	Facts surrounding the death of an individual in prescribed circumstances (e.g., violence, negligence or malpractice) Information about a patient who died while in the hospital after being transferred from a listed facility, institution or home.  Information requested for the purpose of an investigation.	Coroners Act
Minister of Health and Long Term Care	Information for data collection, organization and analysis.	Public Hospitals Act
Ontario Health Insurance Plan	Information about the funding of patient Services.	Public Hospitals Act

<b>TO WHOM DISCLOSURE MUST BE MADE</b>	<b>WHAT INFORMATION MUST BE DISCLOSED</b>	<b>AUTHORITY</b>
Order, warrant, writ, summons or other process issued by an Ontario court	Information outlined on the warrant, summons, etc.	Personal Health Information Protection Act
Physician assessor appointed by the Ministry of Health and Long Term Care	Information to evaluate applications to the Under Serviced Area Program.	Personal Health Information Protection Act
Registrar General	Births and deaths	Vital Statistics Act
Registrar of Motor Vehicles (note this is a mandatory disclosure for medical practitioners and optometrists only)	Name, address and condition of a person who has a condition that may make it unsafe for them to drive.	Highway Traffic Act
Subpoena issued by an Ontario court	Information outlined in the subpoena	Personal Health Information Protection Act
Trillium Gift of Life Network	For tissue donations or transplant purposes, notice of the fact that a patient died or is expected to die imminently.	Consent must be decided with the Network to determine the need to contact the patient or substitute decision maker.
Workplace Safety and Insurance Board	Information the Board requires about a patient receiving benefits under the Workplace Safety and Insurance Act.	Workplace Safety and Insurance Act

Disclosure for health-related programs and legislation

The following tables outline examples of where personal health information may be disclosed. See also the “Consent” section for additional information on permitted disclosures.

<b>PERSON REQUESTING HEALTH RECORD OR CLIENT INFORMATION</b>	<b>PURPOSE</b>	<b>CONSENT NEEDED?</b>	<b>AUTHORITY TO RELEASE INFORMATION</b>
Ambulance services operator or delivery agent or the Minister	Administration/enforcement of the Ambulance Act	No	Ambulance Act
Cancer Care Ontario, Canadian Institute for Health Information, Institute for Clinical Evaluative Sciences or Pediatric Oncology Group of Ontario	To analyze or compile statistical information	No	Personal Health Information Protection Act regulations
Chief Medical Officer of Health, Medical Officer of Health or a	To report communicable diseases	No	Health Protection and Promotion Act

physician designated by the Chief Medical Officer of Health			
College of Pharmacists Investigator	Administration/enforcement of the Drug Interchangeability and Dispensing Fee Act	No	Drug Interchangeability and Dispensing Fee Act
College under the Regulated Health Professions Act, or Social Work and Social Services Act, or Board of Regents under the Drugless Practitioners Act	Administration/enforcement of the relevant statutes	No	Personal Health Information Protection Act
Deputy Minister of Veteran's Affairs or person with express direction	To review the information about the care received by a member of the Canadian Armed Forces	No	Public Hospitals Act
Individual assessing patient capacity, who is not providing care to the patient	To assess capacity under the Substitute Decisions Act, Health Care Consent Act, or Personal Health Information Protection Act	No	Substitute Decisions Act; Health Care Consent Act; Personal Health Information Protection Act
Minister Inspector	Enforcement of the Drug and Pharmacies Regulation Act	No	Drug and Pharmacies Regulation Act
Minister Inspector	Administrator/enforcement of the Public Hospitals Act	No	Public Hospitals Act
Public Guardian and Trustee	To investigate an allegation that a patient is unable to manage their property	No	Personal Health Information Protection Act
Public Guardian and Trustee (PGT), Children's Lawyer, Residential Placement Advisory Committee, Registrar of Adoption of Information, Children's Aid Societies	To carry out their duties and, for the PGT, to investigate serious adverse harm resulting from alleged incapacity	No	Personal Health Information Protection Act

Disclosure to lawyers, insurance companies, adjusters and investigators

PERSON REQUESTING HEALTH RECORD OR CLIENT INFORMATION	PURPOSE	CONSENT NEEDED?	AUTHORITY TO RELEASE INFORMATION
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Lawyers, Insurance Companies, Adjusters on behalf of a patient	To assist a patient with a claim or proceeding	Yes	Express consent
Lawyers, Insurance Companies, Adjusters, Investigators on behalf of a third party, if the third party is an agent or former agent of the custodian	To assist the third party with a proceeding	No	Personal Health Information Protection Act

Disclosure to legal authorities and law enforcement

<b>PERSON REQUESTING HEALTH RECORD OR CLIENT INFORMATION</b>	<b>PURPOSE</b>	<b>CONSENT NEEDED?</b>	<b>AUTHORITY TO RELEASE INFORMATION</b>
Head of penal or custodial institution or an officer in charge of a psychiatric facility where the patient is being lawfully detained	To assist with health care or placement decisions	No	Personal Health Information Protection Act
Investigator or Inspector	To conduct an investigation or inspection authorized by a warrant or law	No	Personal Health Information Protection Act
Police without a warrant	Legal authorities and law enforcement	Yes	Express consent
Police without a warrant	Where there are reasonable grounds to believe that the disclosure is necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm	No	Personal Health Information Protection Act
Probation and Parole Services	Legal authorities and law enforcement	Yes	Express consent