

# University Health Network Policy & Procedure Manual Administrative – Privacy

## Policy

At University Health Network (UHN) privacy is governed by the Personal Health Information Protection Act, a law that establishes rules concerning the collection, use and disclosure of personal health information. As a [health information custodian](#), UHN and its [agents](#) (including staff, physicians, students and volunteers) are responsible for ensuring that the [personal health information](#) of our patients is treated with respect and sensitivity.

## Accountability for Personal Health Information

UHN is responsible for personal health information under its control in compliance with the Personal Health Information Protection Act (PHIPA), 2004.

- Accountability for UHN's compliance with the policy rests with the President and Chief Executive Officer, although other individuals within UHN are responsible for the day-to-day collection and processing of personal health information. In addition, other individuals within UHN are delegated to act on behalf of the Chief Executive Officer, such as the designated privacy contact person, the Privacy Manager.
- UHN is responsible for personal health information in its possession or custody, including information that has been transferred to an agent of UHN. UHN will use contractual or other means to provide a comparable level of protection while the information is being processed by a third party.
- UHN has implemented policies and practices to give effect to this policy, including:
  - a. Procedures to protect personal health information.
  - b. Signing of [Confidentiality Agreement](#) (form D-3236) by all agents of UHN prior to commencement of employment or affiliation with UHN.
  - c. Procedures to receive and respond to complaints and inquiries about UHN's information practices.
  - d. Training staff and communicating to staff and other agents on information about PHIPA and UHN's policies and practices.
  - e. Responding to requests for access to, or corrections of, personal health information in the custody of UHN.

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- In compliance with the Personal Health Information Protection Act, UHN will inform patients of the loss, theft or inappropriate access of their personal health information as soon as reasonably possible.
- Breaches of this policy and related privacy policies may be subject to disciplinary action as outlined in the [Confidentiality Agreement](#) (form D-3236).
- UHN and its agents are also subject to the fines and penalties set out in the Personal Health Information Protection Act up to \$50,000 for individuals and \$250,000 for the organization.

## Identifying Purposes for the Collection of Personal Health Information

At or before the time personal health information is collected, UHN will identify the purposes for which personal health information is collected. Permitted purposes are the delivery of direct patient care, the administration of the health care system, research, teaching, statistics, fundraising, and meeting legal and regulatory requirements as described in the Personal Health Information Protection Act.

- Identifying the purposes for which personal health information is collected at or before the time of collection allows UHN to determine the information it needs to collect to fulfill these purposes.
- The identified purposes are specified at or before the time of collection to the individual from whom the personal health information is collected. Depending upon the way in which the information is collected, this can be done verbally or in writing. An admission form, for example, may give notice of the purposes. A patient who presents for treatment is also giving implied consent for the use of his or her personal health information for authorized purposes.
- Notices identifying the purposes for the collection of personal health information are readily available to patients. See [Openness](#) for further details.
- When personal health information that has been collected is to be used for a purpose not previously identified, the new purpose will be identified prior to use. Unless law requires the new purpose, the consent of the individual is required before information can be used for that purpose.
- Persons collecting personal health information will be able to explain to individuals the purposes for which the information is being collected.

## Consent for the Collection, Use & Disclosure of Personal Health Information

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

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**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. Seeking consent may be impossible or inappropriate, for example when the individual is seriously ill or mentally incapacitated. In these circumstances, consent of the individual's substitute decision maker will be sought, where feasible.

- Consent is required for the collection of personal health information and the subsequent use or disclosure of this information. Typically, UHN will seek consent for the use or disclosure of the information at the time of collection. In certain circumstances, consent with respect to use or disclosure may be sought after the information has been collected but before use (for example, when UHN wants to use information for a purpose not previously identified).
- UHN will make a reasonable effort to ensure that the individual is advised of the purposes for which the information will be used. To make the consent meaningful, the purposes must be stated in such a manner that the individual can reasonably understand how the information will be used or disclosed.
- UHN will not, as a condition of providing care, require an individual to consent to the collection, use, or disclosure of information beyond that required to fulfill the explicitly specified and legitimate purposes.
- In obtaining consent, the reasonable expectations of the individual are also relevant. UHN can assume that an individual's request for treatment constitutes consent for specific purposes.
- The way in which UHN seeks consent may vary, depending on the circumstances and the type of information collected.
- Individuals can give consent in many ways. For example:
  - a. A form may be used to seek consent, collect information, and inform the individual of the use that will be made of the information. By completing and signing the form, the individual is giving consent to the collection and specified uses and/or disclosures.
  - b. Consent may be given verbally or in writing at the time that individuals use a health service.
  - c. Consent may be given verbally when information is collected over the telephone.
- In cases where express consent is required and it is provided verbally, this exchange is documented in the patient's [record of personal health information](#).

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- An individual may withdraw consent at any time, subject to legal restrictions and reasonable notice. Withdrawal of the consent will not have a retroactive effect. UHN will inform the individual of the implications of such withdrawal.

### **Limiting Collection of Personal Health Information**

The collection of personal health information will be limited to that which is necessary for the purposes identified by UHN. Information will be collected by fair and lawful means.

- UHN will not collect personal health information indiscriminately. Both the amount and the type of information collected will be limited to that which is necessary to fulfill the purposes identified.
- The requirement that personal health information be collected by fair and lawful means is intended to prevent UHN from collecting information by misleading or deceiving individuals about the purpose for which information is being collected. This requirement implies that consent with respect to collection must not be obtained through deception.

### **Limiting Use, Disclosure & 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 of the individual or as required by law. Personal health information will be retained only as long as necessary for the fulfillment of those purposes.

- If using personal health information for a new purpose, UHN will document this purpose. Unless law permits the new purpose, the consent of the individual is required before information can be used for that purpose.
- Personal health information that is no longer required to fulfill the identified purposes will be destroyed, erased, or made anonymous.

### **Ensuring Accuracy of Personal Health Information**

UHN will take reasonable steps to ensure that information is as accurate, complete, and up to date as is necessary to minimize the possibility that inappropriate information may be used to make a decision about the individual.

- Limitations on the accuracy and completeness of personal health information disclosed will be clearly set out to the recipient where possible.
- When an individual successfully demonstrates the inaccuracy or incompleteness of personal health information, UHN will amend the information as required. Depending upon the nature of the information challenged, amendment involves the correction, deletion, or addition of information. Where

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appropriate, the amended information will be transmitted to third parties having access to the information in question.

- When a challenge is not resolved to the satisfaction of the individual, UHN will record the substance of the unresolved challenge in the form of a letter from the patient stored in the patient's medical record. When appropriate, the existence of the unresolved challenge will be transmitted to third parties having access to the information in question.

## Ensuring Safeguards for Personal Health Information

Security safeguards appropriate to the sensitivity of the information will protect personal health information.

- Security safeguards are used to protect personal health information against loss or theft, as well as unauthorized access, disclosure, copying, use, or modification. UHN protects personal health information regardless of the format in which it is held.
- The nature of safeguards will vary depending on the sensitivity of the information that has been collected, the amount, distribution, and format of the information, and the method of storage. (See [Storage & Destruction of Confidential Information](#) policy 1.40.006.)
- The methods of protection will include:
  - a. physical measures, for example, locked filing cabinets and restricted access to offices
  - b. organizational measures, for example, policies, training, limiting access on a "need-to-know" basis
  - c. technological measures, for example, the use of passwords, secure computer networks, and audits
- UHN will make its employees aware of the importance of maintaining the confidentiality of personal health information. As a condition of employment, all new UHN employees/agents (e.g., employee, clinician, allied health, volunteer, researcher, student, consultant, or contractor) must sign a [Confidentiality Agreement](#) (form D-3236) with UHN. This safeguard may also be facilitated through contractual provisions.
- Care will be used in the disposal or destruction of personal health information, to prevent unauthorized parties from gaining access to the information. (See [Storage & Destruction of Confidential Information](#) policy 1.40.006.)

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## Openness About Personal Health Information Policies & Practices

UHN makes readily available to individuals specific information about its policies and practices relating to the management of personal health information.

- A written public statement is made available to the public. This notice:
  - a. provides a general description of UHN's information practices
  - b. describes how to contact the UHN Privacy Manager (the designated privacy contact person)
  - c. describes how an individual may obtain access to or request correction of a record of personal health information
  - d. describes how an individual may make a complaint to UHN or to the Information and Privacy Commissioner of Ontario. ilable to related organizations
- UHN may make information on its policies and practices available in a variety of ways. For example, UHN may choose to make brochures available, post signs, or provide online via its public web site.

## Individual Access to Own Personal Health Information

Upon request, an individual will be informed of the existence, use, and disclosure of his or her personal health information and will be given access to that information. An individual will be able to challenge the accuracy and completeness of the information and have it amended as appropriate.

**Note:** In certain situations, UHN may not be able to provide access to all the personal health information it holds about an individual. Exceptions to the access requirement will be in accordance with the law. The reasons for denying access will be provided to the individual. Examples may include information that could reasonably be expected to result in a risk of serious harm or the information is subject to legal privilege.

- Upon request, UHN will inform an individual whether or not it holds personal health information about that individual. UHN will seek to indicate the source of this information and will allow the individual access to this information. However, it may choose to make sensitive medical information available through a medical practitioner.
- An individual will be required to provide sufficient information to permit UHN to provide an account of the existence, use, and disclosure of personal health information. The information provided will only be used for this purpose.
- In providing an account of third parties to which it has disclosed personal health information about an individual, UHN will attempt to be as specific as possible. When it is not possible to provide a list of the organizations to which it has

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actually disclosed information about an individual, UHN will provide a list of the organizations to which it may have disclosed information.

- UHN will respond to an individual's request within the period specified in the Personal Health Information Protection Act (30 days or with notice to the patient, 60 days for more complex requests) and at reasonable cost to the individual. The requested information will be provided or made available with explanation of any term, code or abbreviation used in the record, where reasonably practical.

## Challenging Compliance with UHN's Privacy Policies & Practices

An individual will be able to address a challenge concerning compliance with this policy.

- UHN has procedures in place to receive and respond to complaints or inquiries about its policies and practices relating to the handling of personal health information.
- UHN will inform individuals who make inquiries or lodge complaints of the existence of relevant complaint procedures.
- UHN will investigate all complaints. If a complaint is found to be justified, UHN will take appropriate measures, including, if necessary, amending its policies and practices.
- Complaints can be directed to the Privacy Manager at (416) 340-4800, extension 6937 or by e-mail to [privacy@uhn.on.ca](mailto:privacy@uhn.on.ca).
- Individuals may also make a complaint to the Ontario Information and Privacy Commissioner.

## Definitions

**Agent** – A person that, with the authorization of UHN, acts for or on behalf of the organization in respect of personal health information for the purposes of UHN and not the agent's own purposes, whether or not the agent has the authority to bind the custodian, whether or not the agent is employed by UHN and whether or not the agent is being remunerated. Personal Health Information Protection Act.

- Examples of agents of UHN include, but are not limited to: employees, volunteer, students, physicians, residents, fellows, consultants, researchers, vendors.

**Health Information Custodian** – Listed persons or organizations under the Personal Health Information Protection Act such as hospitals, who have custody or control of personal health information as a result of the work they do. As a public hospital, UHN is

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considered to be a Health Information Custodian (Personal Health Information Protection Act, 2004, Schedule A, Explanatory Note).

**Personal Health Information** – Information about an individual whether living or deceased and whether in oral or recorded form. It is information that can identify an individual and that relates to matters such as the individual's physical or mental health, the providing of health care to the individual, payments or eligibility for health care in respect of the individual, the donation by the individual of a body part or bodily substance and the individual's health number. (Personal Health Information Protection Act, 2004, section 4.1)

- Personal health information can be information about a physician or other care provider, a hospital staff person, a patient, or a patient's family member. Examples of personal health information include a name, medical record number, health insurance number, address, telephone number, and personal health information related to a patient's care such as blood type, X-rays, consultation notes, etc.

**Record of Personal Health Information** – The Personal Health Information Protection Act defines a record as personal health information in any form or in any medium whether in written, printed, photographic or electronic form or otherwise. Furthermore, any information in a health record under the custody or control of the UHN Health Records Department, UHN physician offices and departmental clinics (as per the Public Hospitals Act, Regulation 965, Sec. 20.3), includes, but is not limited to:

- patient name, medical record number, health insurance number, address, telephone number
- all the names of clinical staff involved in the patient's care, films, slides, diagnoses, discharge summaries, progress notes, transcribed reports, orders, consents, electronic images and photographs
- any information that has been scanned, the electronic copy (scanned version) is the official copy or source documentation for patient care and research purposes
- any information and/or medical images in E-film or the Picture Archiving and Communication System (PACS)
- any information in the UHN Clinical Desktop, including information from other systems with an inbound and outbound interface
- any information in other UHN clinical systems that are integrated into the UHN clinical desktop, including, but not limited to, Horizon Patient Folder and MUSE (ECG management system)

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