

University Health Network Policy & Procedure Manual Administrative: Release of Patient Information

Policy

Release and use of patient information is in accordance with the Ontario Public Hospitals Act (PHA), the Mental Health Act, the Vital Statistics Act, Personal Health Information Protection Act, 2004 and other relevant legal and statutory requirements.

This and other University Health Network (UHN) policies related to confidentiality and patient personal and health information should be referred to whenever release of any patient information is under consideration. In particular, refer to:

- [UHN Medical Record of Personal Health Information](#) policy 1.40.009
- [Patient Access to the Medical Record](#) policy 1.40.003
- [Patient Requests for Correction to Medical Record](#) policy 1.40.010
- [Privacy](#) policy 1.40.007

UHN is committed to:

- Ensuring that all [personal health information \(PHI\)](#) is protected from disclosure to unauthorized persons.
- Facilitating timely access to healthcare information as required by authorized individuals for appropriate uses.
- Providing guidelines to all UHN staff and agents on the appropriate use and disclosure of healthcare information.
- Appropriately safeguard patient PHI against loss, defacement and tampering.

Patient health information that is patient or provider identifiable must only be used by authorized personnel on a need-to-know basis. Health information must be accessed or released only for:

- **Direct care use**, when requested by a physician or healthcare facility responsible for the direct care of the patient.
- **Individual use**, when authorized by the patient or legal representative.
- **Secondary use**, when requested by properly authorized persons or agencies for appropriate uses.
- **Legal use**, when required by law.

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Policy Number	1.40.002	Original Date	07/06
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Issued By	Shared Information Management Services	Review Dates	
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UHN [agents](#) (including employees, physicians, contractors, consultants, volunteers, students and other workers at UHN) may not access their own paper and/or electronic records outside of the processes detailed in this policy and, by extension, may not directly view their own records in electronic systems.

Custodian of Personal Health Information

UHN is the custodian of the patient care record documented and compiled at UHN related to the health, care, treatment, assessment, examination, or investigation of a patient. This includes ambulatory care patient records. The patient has the right to:

- the protection of the confidentiality of the information documented in the record
- access this information as outlined in [Patient Access to the Medical Record](#) policy 1.40.003
- correction of this information if it is incorrect for the purposes for which it was collected, as outlined in [Patient Access to the Medical Record](#) policy 1.40.003

The original [medical record](#) or any part of the record must not be removed from the Hospital premises, except as required by subpoena, court order, statute, or as outlined in this policy.

In some instances, the original chart may be taken by the coroner or by the police with a court order. In all other instances, a copy must be made of the information requested and the original chart must remain in the Hospital.

Same Day Transfers to another Facility

If a patient is being sent to another institution for care and will be returning to UHN the same day, the chart may be sent with the patient. The nursing unit is responsible for ensuring that the complete chart returns with the patient.

Valid Consent for Release of Information

Any authorization for release of information must be an original and include:

- name, address, and telephone number of person/agency/healthcare facility requesting the information
- full name, address, and date of birth of the patient
- a description of the type and amount of information to be released
- intended use of the requested information or an acknowledgement of their understanding of the intended use
- date the consent was completed. If not dated the consent is valid for 60 days from the time the consent/request was received.
- name of the healthcare facility releasing the information (e.g. Toronto General Hospital)

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- signature of an authorized person, i.e. the patient
 - a. In case of an incapacitated patient, a person lawfully authorized to make treatment decisions on behalf of an incapable person, such as a substitute decision-maker.

Required documentation to be provided to UHN prior to release of information is confirmation of relationship to the incapable patient, Power of Attorney for Personal Care or written request from Public Guardian and Trustee.

- b. In the case of a deceased patient, the appointed Estate Trustee with or without a will. Presentation of the will is insufficient.
 - i. Required documentation to be provided to UHN prior to release of information is the Certificate of Appointment identifying the person requesting the information as the Estate Trustee.
 - ii. If there is no will and the family have no intention of having an Estate Trustee without a will appointed, then release of the information may only be authorized by UHN Legal Counsel or the manager of Health Records.
- c. In the case of a patient under 16 years of age:
 - i. The child, if the child is [capable](#).
 - ii. The parent or person who has lawful custody (this does not include a parent who has only a right of access to the child).
 - iii. In the event of a conflict between the capable child and the parent, the capable child’s decision prevails with respect to consent.

Note:

A parent, Children’s Aid, or other legal guardian may not consent to access or release information relating to:

- treatment that the patient had themselves consented to (unless the patient is no longer capable), or
- counseling that child has participated on his or her own under the Child and Family Services Act.

Note: For urgent medical requests, the next of kin can be accepted to release the information.

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Concerns about the acceptability of a consent should be directed to Health Records at 416-340-4771 (14-4471).

Documentation of Consent

Where consent for disclosure is required, the preferred method of documenting consent is through the [UHN Authorization for Disclosure of Personal Health Information](#) (form 2323). Comparable forms (meeting the criteria for a valid consent described above) from other healthcare institutions may be accepted. Details and comments relating to the disclosure may be recorded on the reverse of the form. An original signed copy of the consent to disclose is filed or scanned into the patient's [record of personal health information](#) for future reference.

The content of consent forms must not be altered once signed by the patient. If an amendment to the consent of the patient is required, for example to clarify dates of treatment or request information from a hospital not previously identified in the consent, the patient must be asked to sign a separate authorization form.

The date of the request for access is documented in the patient's record of personal health information.

Fees

The fees that may be charged for releasing PHI to third parties (i.e. other than the patient to whom the information relates) are set by Health Records Services on a reasonable cost recovery basis. Departments or clinics providing copies of information from the patient's [medical record](#) may independently set fees consistent with and the principle of reasonable cost recovery.

If, in the judgment of a clinic or department, it is in the patient's best interests to waive these fees, all or part of this fee may be waived.

Fees for providing access to the patient directly are defined in the regulations of the Personal Health Information Protection Act and described in [Patient Access to the Medical Record](#) policy 1.40.003.

Release of Personal Health Information

Discharged Patients

All requests for release of information for discharged inpatient or Emergency records must be referred to Health Record Services.

Emergent verbal requests for discharged patient information from healthcare providers for the purpose of providing healthcare may be granted outside Health Records Services, as directed by the patient's care team, and documented in the patient's medical record.

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All requests for the release of health information for a discharged Emergency, inpatient or clinic patients may be released in accordance with this policy.

For the Purposes of Care (Use or Disclosure within the “Circle of Care”)

Outside healthcare facilities or healthcare providers who are directly involved in the care, treatment, assessment, examination or investigation of the patient may have access to healthcare information without providing a signed authorization, provided they are providing healthcare to the patient and require the information for this purpose (e.g. family physician, nursing home the patient was transferred to, etc.) **unless the patient has expressly withheld or withdrawn consent for the use/disclosure of information for the purposes of care. If a patient has made this request it must be documented in the patient’s electronic record under the patient caution tab. All staff disclosing information for the purposes of care must look for this information in the electronic record before fulfilling a request.**

When another healthcare facility or provider requests health information, it must be determined whether this information is required for the proper care, diagnosis and treatment of the patient. If the information is required for care and treatment, the information may be released **without** a written authorization of the patient. If there is any doubt about the reason for the request, an authorization signed by the patient must be obtained.

If the patient or their representative is unable to sign an [Authorization for Disclosure of Personal Health Information](#) (Form 2323), or equivalent form of the requesting facility, the treating physician at the requesting institution should sign the form. The form provided must also document that authorization was requested, that the patient was unable to sign, and that it was verified that the patient was receiving treatment at the requesting institution.

When a patient is discharged to a nursing home, a copy of the discharge summary or other available information should be sent to the nursing home either **with** the patient (if available at the time of transfer) or at some later date when this information becomes available. A patient transferred to another health facility must be accompanied by adequate documentation, including a discharge summary.

Telephone Requests

When receiving a telephone request for PHI from another healthcare facility regarding a patient being treated there, the name of the caller, telephone number, and particulars of the data required should be obtained. The information can be provided once it has been verified that the telephone number of the caller corresponds to a bona fide healthcare facility number in a telephone directory.

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Patient Inquiries

- **Calls received at Hospital Switchboard:** Callers to the Hospital Switchboard or Inquiry Desk may be supplied with the following information, provided the patient has not expressly withheld or withdrawn consent to the information being disclosed:
 - a. presence of the patient
 - b. location of the patient (room number)
 - c. telephone number in the patient's room

All or part of this information shall be withheld if the patient expressly states that they do not consent to its disclosure.

- **Inquiries about the patient's condition (not including requests from the media):** All requests for information relating to the condition of a hospitalized patient shall only be answered by the patient/substitute decision-maker or by a healthcare provider, in accordance with this policy. Information about the patient's condition may be stated in general terms (e.g. fair, stable, critical) unless the patient has expressly requested that this information not be disclosed.

Research

No information will be disclosed for research purposes to any requestor (including Ministry of Health and Long-term Care, government agency, or researcher) without written approval of the Research Ethics Board or signed consent from the patient. PHI will only be released in accordance with the Personal Health Information Protection Act.

Health Card Billing Requests

Upon receiving a request, the following information may be provided to physicians/midwives/dentists who have participated in the care of a patient:

- health card number
- date of birth
- admission and discharge dates
- consultation date
- address
- telephone number
- name of referring/attending/family physician

Other Requests

All other requests for information must be accompanied by an original written authorization of the patient allowing release of the information, and must be referred to

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Health Record Services. Where the patient is deceased, the written authorization must be signed by the estate trustee with or without a will.

Disclosures Prescribed or Permitted by Law

Agencies requesting patient information with legislative authority may receive PHI without patient consent where documentation is provided to demonstrate this authority.

The Hospital must ensure that only the information required by the agency is provided and individuals accessing this information sign the [UHN Confidentiality Agreement](#) (form D-3236). If in doubt about the legitimacy of any request, the request should be directed to the Privacy Office or to UHN Legal Affairs.

OHIP Fraud

Under the Health Insurance Act, physicians and UHN staff are obligated to report OHIP fraud to the Ministry of Health and Long-term Care (1-800-265-4230).

OHIP fraud includes situations where an ineligible person uses a Health Card to obtain OHIP insured services.

Staff may call the UHN Department of Finance, Accounts Receivable at 416-340-4800 ext. 3063 (14-3063) or Legal Affairs at 416-340-4800 ext. 4101 (14-4101) for assistance.

Requesting Agents & Requirements

Canadian Council on Health Services Accreditation (CCHSA)

Official representatives of the CCHSA may access health information for the purpose of conducting an accreditation survey of the Hospital. Accreditation surveyors must have signed the [UHN Confidentiality Agreement](#) (form D-3236) before accessing PHI.

Similar bodies may access health information when conducting an audit or reviewing an application for accreditation, or reviewing the status of an accreditation, if the audit or review relates to services provided by UHN and the auditor does not remove any records from the premises. Individuals conducting the audit or review must sign the [UHN Confidentiality Agreement](#) (form D-3236) before accessing PHI.

Children's Aid (Duty to Report Child Abuse and/or Neglect)

See [Child Abuse/Neglect](#) policy 3.40.026.

Consent & Capacity Board

UHN will endeavour to support Consent and Capacity Board lawyers who are representing inpatients. Every effort must be made by the patient's inpatient nursing unit

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to respond to lawyer requests in a timely manner; however, clinical emergencies take priority and lawyer requests will be dealt with as soon as possible.

UHN staff and agents will comply with the Mental Health Act, which states, “A lawyer who has been retained to represent a patient at a hearing of the Consent and Capacity Board is entitled to access the clinical record. No consent is required.”

The lawyer may review the chart in the nursing station or in an office on the unit. Lawyers may not show the chart to the patient without the psychiatrist’s permission.

Fees for copies of the record are in accordance with provisions regarding [fees](#). Any courier expenses required to transfer copies of the patient chart will be paid for at the lawyers’ expense.

Any lawyer not representing the patient in a hearing of the Consent and Capacity Board must obtain consent to the disclosure from the patient or substitute decision-maker before access to the chart can be granted.

Coroner

A coroner, or a physician/police officer authorized by a coroner, may access health information in the exercise of their powers under the Coroners Act.

Staff must disclose to coroner (416-314-4000) deaths that fall under the Coroner’s Act. (See [Care after Death](#) policy 3.30.003.)

The coroner may request or may authorize a police officer to collect PHI pertaining to the deceased on the coroner’s behalf.

All requests for information by the coroner are to be directed to Health Records during regular hours or to the Nursing supervisor after regular hours.

Before releasing information, it is prudent to obtain a warrant from the coroner or officer acting on the coroner’s behalf. In certain circumstances, it may not be feasible to obtain a copy of a search warrant before the records are disclosed. Should this occur, the fact of the disclosure, to whom the disclosure was made, and on what basis are to be documented on the patient record by the person disclosing the information/record.

Deputy Minister of Veterans Affairs

The Deputy Minister of Veterans Affairs (Canada), or a person authorized by the Deputy Minister, may access health information of a patient who is a member of the Canadian Forces or an ex-member of Her Majesty’s military, naval or air force of Canada [(PHA Reg. 965, Sec. 22.6(e)).

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Government Agencies

Unless it is permitted or required by law, a government agency is not entitled to health information without a patient's consent. Examples of situations where disclosure is permitted include:

- **Ministry of Health:** When requested to do so by the Ministry of Health, information from Health Records may be provided to:
 - a. Cancer Care Ontario [PHA Reg. 965, Sec. 23(a)]
 - b. a person with written confirmation that the access request is for the purposes of information and data collection, organization, and analysis [PHA Reg. 965, Sec. 23(b)]
 - c. a physician assessor appointed by the Ministry for the purposes of evaluating applications to the Under-served Area Program [PHA Reg. 965, Sec. 23(c)]

- **Other agencies:** The following agencies may receive patient information without patient's consent by providing a written request:
 - a. Children's Aid Society with custody of a child, when that child is under 16 years of age
 - b. Children's Aid Society or the Crown Attorney's Office, in cases of suspected child abuse
 - c. Ontario Health Insurance Plan (OHIP), with respect to the funding of patient services [PHA Reg. 965, Sec. 22(5.1)]
 - d. Chief Medical Officer of Health or Medical Officer of Health, with respect to public health matters involving communicable diseases (such as tuberculosis, SARS) (Health Protection and Promotion Act)

- **Highway Traffic Act:** Every qualified medical practitioner must report to the Registrar of the Ministry of Transportation the name, address, and clinical condition of every person 16 years of age and older, who attends on that medical practitioner for services, and who, in the opinion of the medical practitioner, is suffering from a condition that makes it dangerous for that person to operate a motor vehicle.

A Medical Condition Report form must be completed and faxed to the Ministry at 416-235-3400. The form may be completed on-line from the [Ontario Central Forms Repository website](#).

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Insurance Companies

Information will only be sent upon receipt of the patient's original written authorization and the appropriate processing [fee](#).

- **An insurance company requesting proof of death:** Upon the written authorization of the personal representative of the patient (Estate Trustee) a "Proof of Death" form may be sent to the insurance company.
- **Health insurance companies:** When upon admission, patients indicate that they subscribe to an insurance company (and attach their insurance number), and consent to disclosure of PHI to the insurance company, the Hospital may furnish only as much PHI as is required to fulfill the purpose identified, including diagnostic information, to the specified health insurance company.
- **Worker's Safety and Insurance Board (WSIB):** Without patient authorization, PHI which the Board requires about a patient **receiving benefits** under the Workplace Safety and Insurance Act may be furnished upon written request.

Law Enforcement (TPS/OPP/RCMP)

See [Release of Information/Specimens/Items to Police](#) policy 1.40.011.

Lawyers

Any requests from lawyers, in or outside of Canada, must be directed to Health Record Services.

Information will only be sent upon receipt of the patient's written original authorization and the appropriate processing [fee](#).

Health Record Services must verify the **reason for request**. If the reason is not provided, the requesting lawyer's office must be called to request a letter outlining the reason for the request. Only material from the specific visit requested should be released.

If the letter of request is for unspecified legal purposes, Health Records must take the chart to Legal Affairs to authorize processing. The information is provided even where the lawyer refuses to provide the reason for the request.

If the request states that it is a potential legal suit against the doctor or the Hospital, Health Records must take it immediately to Legal Affairs to authorize processing.

If the letter of request states "motor vehicle accident", Health Records must review the chart to confirm it, after which the chart may be processed.

If in doubt about any requests from lawyers, Legal Affairs should be contacted.

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Ministry of the Attorney General, Office of the Public Guardian and Trustee

Written requests may be sent from the Ministry of the Attorney General, Office of the Public Trustee. Health Records must enter the request in the Release of Information log or the patient chart, and file a copy of the letter in the chart. Health Records must check for:

- the discharge date
- Certificate of Incompetence to Manage One's Estate (Form 21-Mental Health Act) and the date it was issued
- Notice of Continuance of Certificate of Incompetence (Form 24-Mental Health Act) and the date it was issued

Health Records must prepare the appropriate letter of response indicating the certificates are in the chart, or the letter of response indicating the certificates are **not** in the patient's chart. Health Records will return the chart to the appropriate location.

In some other cases, the Public Guardian and Trustee may have the appropriate authority access a patient's medical record **without** the patient's express consent. If the Public Guardian and Trustee sends a request where there are no certificates of incompetence, Legal Affairs should be contacted for further guidance.

Next of Kin

Inpatient information will not be released to any next of kin, **except with** the patient's express consent, or if the patient is deceased (and then, only in accordance with the provisions of this policy). For discharged patients, Health Records Services will manage the request.

Note: For urgent medical requests, consent of the next of kin or emergency contact can be accepted to release the information.

Press/Media

See [Media Relations](#) policy 1.50.001.

Registries

PHI may be disclosed to registries prescribed under the Regulations of the Personal Health Information Protection Act for the purposes of facilitating or improving the provision of healthcare, or that relates to the storage or donation of body parts or bodily substances. Currently prescribed registries include:

- Cardiac Care Network of Ontario, in respect of its registry of cardiac services
- INSCYTE (Information System for Cytology etc.) Corporation, in respect of CytoBase

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- London Health Sciences Centre, in respect of the Ontario Joint Replacement Registry
- Canadian Stroke Network, in respect of the Canadian Stroke Registry
- Cancer Care Ontario
- Canadian Institute for Health Information
- Institute for Clinical Evaluative Sciences
- Pediatric Oncology Group of Ontario

Regulated Health Professional Colleges

The Registrar of the College of Physicians and Surgeons of Ontario, the Council of the College of Physicians and Surgeons of Ontario, or a physician appointed by the College may have access to health information after giving written notice to the administrator and the chief of the medical staff, for the purposes of investigating the medical care provided to a patient or outpatient of the Hospital by a physician [PHA Reg. 965, Sec. 22.(3)].

Requests from other regulated health professional colleges (e.g. CPSO, CNO, Respiratory Therapy, etc.) are managed in a similar manner.

Students

Where appropriate, patient information may be made available to students enrolled in educational programs affiliated with the Hospital, as per authorization from their instructors. Students must have signed the [UHN Confidentiality Agreement](#) (form D-3236) before commencement of their placement in the Hospital.

Performance Standards

Due to the serious consequences of an error in the release of information, the standard is 100% accuracy; i.e. 100% of the time, the correct information is released to authorized individuals.

It is unacceptable to:

- photocopy and release death certificates [in violation of the Vital Statistics Act, Chapter 524, Sec 17(5)]
Note: It is not illegal to photocopy a death certificate if it is for the patient's chart and is to remain in the original chart and not to be copied for release of information purposes.
- release information **without** valid consent, where required
- improperly search for information, i.e. a thorough search must be done to find charts
- delay the release of information (e.g. fail to properly prepare charts for court)

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

Capable: To be capable of consenting to the collection, use, or disclosure of their patient health information, a patient must be able to understand:

- The information needed to make a decision on whether or not the patient should consent to the collection, use, or disclosure of personal health information, and
- The consequences of giving, withholding, or withdrawing consent.

A patient is presumed capable unless there is reason to believe otherwise.

Confidential information: Confidential information is information of a sensitive nature in any format that is created or received by UHN in the course of its business that is not otherwise available to the public and includes, but is not limited to:

- **Personal health information (PHI):** 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 healthcare to the individual, payments or eligibility for healthcare 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).

PHI can be information about a physician or other care provider, a hospital staff person, a patient, or a patient's family member. Examples of PHI 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.

PHI includes all that is written, verbal, in hard copy, on microfilm, scanned, photographed, in computerized or any machine-readable form and electronically stored or transmitted (including the medical record, clinical and non-clinical data).

- **Record of personal health information (medical record, health record):** The Personal Health Information Protection Act defines a record as personal health information in any form or in any medium, whether in written, printed,

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photographic, or electronic form or otherwise. Furthermore, any information in a medical record under the custody or control of the UHN Health Records Department and departmental clinics (PHA Reg. 965, Sec.20.3) includes, but is not limited to:

- a. patient name, medical record number, health insurance number, address, telephone number
- b. 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
- c. any information that has been scanned – the electronic copy (scanned version) is the official copy or source documentation for patient care and research purposes
- d. any information and/or medical images in e-film or the Picture Archiving and Communication System (PACS)
- e. any information in the UHN Clinical Desktop, including information from other systems with an inbound and outbound interface to e-gate
- f. 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)

Power of Attorney: Attorney for personal care (or Power of Attorney for Treatment) means the patient designated individual to whom the patient has granted authority to make treatment decisions.

- Requests for PHI sent by lawyers, insurance companies, private citizens not related to the patient, trust companies, banks, etc., may be accompanied by consent from a party named as the Attorney in the patient’s Power of Attorney.
- The letter must be accompanied by a notarized copy of the Power of Attorney, as proof that the requester has a valid Power of Attorney and is authorized to request disclosure of PHI.

References

1. CHRA Code of Practice for Safeguarding Health Information.
2. Mount Sinai Hospital. Confidentiality and Release of Information Policy. March 2002. Toronto, Canada.

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Policy Number	1.40.002	Original Date	07/06
Section	Privacy & Information Security	Revision Dates	11/16
Issued By	Shared Information Management Services	Review Dates	
Approved By	Senior Vice-president & Chief Information Officer; Medical Advisory Committee	Page	14 of 14