

PRIVACY AND CONFIDENTIALITY	ADMINISTRATION ADM – 030
Issuing Authority	David Diamond, Chief Executive Officer Signed by David Diamond Dated: January 19, 2022
Office of Administrative Responsibility	Privacy, Planning and Performance Office
Author	Alissa Setliff, Regional Director Dept. of Privacy, Planning and Performance
Level	One (I)
Original Approval Date	October 13, 2008
Effective Date	February 18, 2022
Scheduled Review Date	Sept 2019, October 2025
Actual Review Date	September 2020, January 19, 2022
Revised Date(s)	June 7, 2011; Sept 24, 2013; August 29, 2017, February 18, 2022

Overview

Eastern Health is committed to protecting the privacy and confidentiality of personal information and personal health information in its custody and control.

The *Access to Information and Protection of Privacy Act, 2015* (ATIPPA) sets out the rules for the collection, use, and disclosure of personal information. The Newfoundland and Labrador *Personal Health Information Act* (PHIA) sets out the rules for the collection, use, and disclosure of personal health information. Eastern Health is both legally and ethically responsible for the information generated within its service delivery and, as such, Eastern Health develops policies and procedures on how that information is collected, used, accessed, maintained, disclosed, and destroyed.

POLICY

It is the responsibility and obligation of all employees, agents, and/or those affiliated either directly or indirectly with Eastern Health to ensure that information to which they have access is kept private and confidential.

All information obtained in the course of an affiliation with Eastern Health must be held in the strictest confidence. All reasonable measures must be taken to

ensure that information is collected, used, accessed, and disclosed for a lawful purpose and only in circumstances necessary and authorized for client care, research, education and/or as necessary in the conduct of business of the organization, and for other purposes as required or permitted by law.

Collection, use, access, sharing, disclosure, maintenance, or disposal of information must be done in accordance with the appropriate legislative authority, professional standards, scope of practice or responsibility, codes of ethics, and Eastern Health policy.

Information that is to be kept confidential and private and not disclosed unless permitted or required by policy or legislation is information that would not otherwise be publicly available and includes, but is not limited to:

Type of Confidential Information:	
Client/Patient/Resident	Any client/patient/resident Personal Health Information or Personal Information.
Financial	Any information that would outline a person's individual salary or any unpublished financial information of the organization (e.g., debtors, payroll).
Human Resources	Any personal and employment information that is gathered as a result of established relationships/affiliations with Eastern Health.
Legal	Any information outlined in a legal document (e.g., contracts, agreements, memorandums disputes, emails) for which privilege is claimed.
Other Administrative Information	Any information used for administrative purposes (e.g., clinic schedules, patient census, employee lists, patient lists or donor lists).
Business Initiatives	Any information related to the Organization's initiatives (e.g., organizational restructuring, mergers, outsourcing of business units, recruitment).
Operational/Service Delivery	Information related to business decisions and/or operations for which preliminary disclosure would cause harm.
Other	Confidential information that is provided to, obtained from, or generated as a result of a relationship with Eastern Health, regardless of where that information may be subsequently stored or used.

Information may be in several formats including, but is not limited to, paper, electronic, film, visual, or verbal communications.

Personal and personal health information should only be collected, accessed, used, and disclosed on a need-to-know basis by employees, agents, contractors, and all those affiliated with Eastern Health, keeping in mind that the authorized collection, access, use, and disclosure should be limited to the minimum amount necessary. Employees, agents, contractors, and all those affiliated with Eastern Health must access personal information and/or personal health information on a need-to-know basis only, and as defined by their role within the organization. Access to Eastern Health's records and information is a privilege. For more information on appropriate collection, access, use, and disclosure of personal health information for the purpose of providing care, please refer to the *Circle of Care, ISP-015* policy. Access is permitted only for the purpose of employment or affiliate duties or for conducting business as per a contract or agreement. Intentional, as well as unintentional access, collection, use, disclosure and/or viewing of confidential information that is not necessary for the performance of one's assigned responsibilities or duties is a breach of privacy and confidentiality, even if that information is not disclosed to another party.

It is also a *breach of policy* to access your own personal health information. To access your own records, please refer to policy *RM-CR(1)-300 Release/Disclosure of Personal Health Information from the Health Record to the Patient/Client/Resident or Authorized Representative*.

Any employee, agent, or affiliate whose relationship/employment ceases with Eastern Health or any supplier/contractor whose contract ends with Eastern Health is required to treat all information obtained as a result of that service and covered by this policy as confidential/private indefinitely and must not disclose it to any third party, for any reason, unless given written authorization from Eastern Health or required by law. Additionally, an employee, agent, affiliate, or contractor must also return to Eastern Health all information covered in this policy or destroy the information in a manner authorized by Eastern Health and that ensures the protection of that information from unauthorized access, use, or disclosure, unless otherwise specified in a contract or agreement and subject to applicable legislation.

Privacy/Confidentiality Oath/Affirmation

All Eastern Health employees, agents, volunteers, contractors and those affiliated either indirectly or directly with Eastern Health must take an oath or affirmation of privacy/confidentiality and that oath must be kept on file and available for review by the Privacy Office upon request. There are different forms for employees, agents, physicians, vendors/contractors, foundation staff, volunteers, and affiliates. The Oath/Affirmation will be renewed every five years or at the discretion of Executive.

Breach of Confidentiality and/or Privacy

Individuals and corporations are held accountable for breaches of confidentiality and/or privacy. A breach includes intentional or unintentional unauthorized access to, use, disclosure, and/or disposal of confidential information.

Unauthorized sharing or disclosure of personal information or personal health information in any format, including on social media websites (e.g., Facebook or Twitter) is considered a privacy breach.

All Eastern Health employees, agents, or affiliates have a responsibility to report breaches of confidentiality and/or privacy. If a breach is suspected it must be reported to a Privacy Manager with Eastern Health as soon as possible, as per policy *Privacy Breach Management, ACP-200*.

If it is established that a breach of confidentiality and/or privacy has occurred, those individuals or corporations deemed responsible may be subject to penalty or discipline up to and including termination of employment, cancellation of contract or services, termination of the relationship with Eastern Health, withdrawal of privileges, and/or legal action. Where applicable, reporting to an individual's professional regulatory body will be considered.

Legal Limits

In some cases, legislation requires disclosure of personal patient/resident/client information without the consent of the patient/resident/client, including the common law recognition of the Duty to Warn.

Reasonable Limits

While every effort is made to maintain confidentiality and privacy, the organization recognizes that, in practice, reasonable limits may be placed on the principle of confidentiality.

The actual facilities and dynamic environment in which services are provided can limit the degree to which privacy and confidentiality can be protected (e.g., 4-bed patient rooms, busy clinics, crowded emergency departments, home visit environments).

Understanding the environmental limitations inherent in the health care setting, information that is considered confidential and private is not to be discussed in any public location (e.g., elevators, lobbies, cafeterias, off premises, etc.) where others, not entitled to receive that information, are present and likely to overhear.

Investigation of privacy/confidentiality breaches and/or other organizational processes defined by Eastern Health policies may necessitate disclosure of personal information and/or personal health information to staff not routinely privy to this level of access.

Recognition of Professional Standards/Regulations

Eastern Health employees and agents may have disclosure/advocacy obligations arising from professional standards and regulations and concerns regarding safety of the patient/resident/client and services delivered. Eastern Health acknowledges the responsibility of health care professionals and organizations for appropriate disclosure to the public. It is the expectation that

concerns/issues be first directed through the operational departments and programs of Eastern Health as the initial step toward resolution.

Scope

This policy applies to:

1. all Eastern Health employees;
2. all Eastern Health volunteers;
3. all Eastern Health agents and affiliates;
4. all students placed/participating in Eastern Health services;
5. all Eastern Health Foundation staff;
6. all vendors, contractors and suppliers of goods and services to Eastern Health; and
7. any individual or corporation either directly or indirectly associated with Eastern Health.

Purpose

To provide a framework for the consistent management of personal information and personal health information collected, accessed, used, disclosed, and protected by Eastern Health in accordance with the principles and requirements of the various legislative Acts, including but not limited to the *Access to Information and Protection of Privacy Act, 2015*, the *Regional Health Authorities Act*, and the *Personal Health Information Act*.

Procedure

This policy must be reviewed by employees and non-employees personnel at the time of hire, appointment, engagement, or affiliation and reviewed periodically including at the time of signing or resigning the oath.

Supporting Documents *(References, Industry Best Practice, Legislation, etc.)*

- *Access to Information and Protection of Privacy Act, 2015*, SNL 2015, c. A-1.2
- *Regional Health Authorities Act*, s. 25
- *Health Research Ethics Authorities Act* (proclaimed July 2011)
- *Personal Health Information Act*, SNL2008, c.P-7.01
- Canadian Standards Association (CSA) Model Code for the Protection of Personal Information CAN/CSA-Q830

Linkages

- Circle of Care ISP-015
- Collection of Personal Health Information ISP-020
- Communicating Client Personal Health Information Via Electronic Mail (E-Mail and Texting) RM-CR(VI)-020
- Disclosure of Inpatient Location Information ISP-030
- Communicating Client Personal Health Information via Facsimile RM-CR(VI)-030
- Guidelines for Eastern Health Employees on Participating in Social Media
- Oath or Affirmation of Privacy/Confidentiality
- Occurrence Reporting and Management QRM-080
- Retention and Destruction of Scanned Paper Personal Health Records RM-CR(V)-220
- Permitted Uses of Patient/Resident/Client Personal Health Information Without Consent RM-CR(I)-180
- Privacy Breach Management ISP-200
- Release/Disclosure of Personal Health Information from the Health Record to the Patient/Client/Resident or Authorized Representative ISP-215
- Security Of Patient/Resident/Client Personal Health Information RM-CR(VI)-100

Key Words

Affiliate, Agent, Confidentiality, Privacy, Breach of Confidentiality and/or Privacy, Oath or affirmation of Confidentiality, Commissioner of Oaths, Notary Public, Personal Information, Personal Health Information, Access to Information, Access to Medical Records

Definitions & Acronyms

Affiliate	A person authorized by Eastern Health, to act on its behalf or on behalf of another public body. This term includes designated staff within the Department of Child Youth and Family Services and other persons who are affiliated with Eastern Health.
Affirmation	Affirmation is a solemn declaration instead of an oath and has same legal effect as an oath. <i>Source:</i> http://dictionary.reference.com/browse/affirmation
Agent	A person authorized by Eastern Health to act on its behalf. This term includes physicians, volunteers, pastoral care workers as well as staff and contractors and other persons working within Eastern Health facilities or affiliated with Eastern Health.
Confidentiality	The duty to protect, respect and maintain the privacy of personal health and business information, the obligation to refrain from disclosing personal health information outside the “circle of care” or business information to others not involved with the use of the information in the normal course of their authorized work.
Privacy of Information	The right of an individual within limits to determine when, how and to what extent personal information is collected, used and disclosed about him/herself.
Disclosure	The provision or communication of personal health or business information outside of the authorized uses described.
Circle of Care	As per section 24 of PHIA, the circle of care includes the persons participating in and activities related to the provision of health care to the individual who is the subject of the personal health information and includes necessarily incidental activities such as laboratory work and professional consultation. <i>Source: PHIA and Circle of Care, ISP-015 policy</i>
Duty to Warn	A term referring to the responsibility of a clinician to inform third parties or authorities if a client poses a threat to himself or to another identifiable individual. Based on common law, Duty to Warn gives

	clinicians the right to breach confidentiality if a client poses a risk to another person.
Notary Public	<p>A public officer or other person authorized to authenticate contracts, acknowledge deeds, take affidavits, protest bills of exchange, take depositions, etc.</p> <p>Source: http://dictionary.reference.com/browse/notary+public</p>
Personal Health Information	<p>Identifying information in oral or recorded form about an individual that relates to</p> <ol style="list-style-type: none"> a. the physical or mental health of the individual, including information respecting the individual's health care status and history and the health history of the individual's family; b. the provision of health care to the individual, including information respecting the person providing the health care; c. the donation by an individual of a body part or bodily substance, including information derived from the testing or examination of a body part or bodily substance; d. registration information; e. payments or eligibility for a health care program or service in respect of the individual, including eligibility for coverage under an insurance or payment arrangement with respect to health care; f. an individual's entitlement to benefits under or participation in a health care program or service; g. information about the individual that is collected in the course of, and is incidental to, the provision of a health care program or service or payment for a health care program or service; h. a drug as defined in the Pharmacy Act, a health care aid, device, product, equipment, or other item provided to an individual under a prescription or other authorization issued by a health care professional; or <p>The identity of a person's representative or guardian.</p> <p>Source: PHIA</p>
Personal Information	Information about an identifiable individual,

	<p>including:</p> <ol style="list-style-type: none">i. the individual's name, address, or telephone number,ii. the individual's race, national or ethnic origin, colour, or religious or political beliefs or associations,iii. the individual's age, sex, sexual orientation, marital status, or family status,iv. an identifying number, symbol or other particular assigned to the individual,v. the individual's fingerprints, blood type or inheritable characteristics,vi. information about the individual's health care status or history, including a physical or mental disability,vii. information about the individual's educational, financial, criminal or employment status or history,viii. the opinions of a person about the individual, andix. the individual's personal views or opinions. <p><i>Source: ATIPPA, 2015</i></p>
--	---