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| MANITOULIN HEALTH CENTRE | POLICY: BOARD-11-04 | DEPARTMENT: Board |
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| SUBJECT MATTER: Freedom of Information and Protection of Privacy Act – Hospital Obligations Under the Act | |
| EFFECTIVE DATE: January 1, 2012 | DATE REVIEWED: |
| PREVIOUS POLICY: None | DISTRIBUTION: All Departments Board of Directors |

STATEMENT OF POLICY

Manitoulin Health Centre recognizes that an appropriate balance must be determined between the right of public access to non-personal health information collected and held by our organization and the right of privacy that is due to patients, staff and other individuals.

This policy explains both the implementation and ongoing obligations for compliance that hospitals have under the Act

Governance, Leadership, and Accountability

The Head

The Head is the Board Chair, who is accountable for the hospital's overall compliance with FIPPA. This includes clear written delegation of authority to the CEO and FOI/PHIPA Officer. Routine compliance reports (at least annually) shall be reviewed by the Head, so that there is evidence that:

- the hospital responds to FOI requests in compliance with FIPPA; and
- personal information is collected, used, disclosed, retained, and disposed of in accordance with FIPPA.

The CEO and FOI/PHIPA Officer

The CEO will provide Senior Leadership for the overall processes undertaken by the hospital with respect to activities under the Act. The FOI/PHIPA Officer will act as the expert staff member within the organization who will coordinate the hospital's compliance activities and work with the CEO to respond to FOI release requests. In the absence of either party, each shall have the authority to act independently to move and issue forward and render decisions.

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In a conflict of interest situation involving either the CEO or FOI/PHIPA Officer, the person in conflict will declare such and remove themselves from the decision making and response process.

Communication of Delegation and Authority

All hospital personnel shall receive communication as to the powers of the CEO and FOI/PHIPA Officer. Staff shall understand that all matters in relation to compliance under the Act, including breach investigation, requests for release, etc. are to be brought to the attention of either the CEO or FOI/PHIPA Officer.

Checklist for the FOI/Privacy Office Space

An FOI/Privacy Office must have the following features:

Secure office premises:

- secure locking door;
- no public access to the work and filing areas of the office (e.g., public access restricted to a reading room and/or reception area);
- secure file storage (e.g., secure locking cabinets); and
- secure file disposal equipment (e.g., cross-cut shredder).

Secure resources:

- password-protected computers;
- password-protected and encryption-enabled mobile devices;
- servers that are structured so that FOI and Privacy Office files are protected from access by other hospital personnel (and if two or more hospitals share the services of an FOI and Privacy Office, the files of these hospitals must be segregated, with strict access controls put in place); and
- dedicated scanner, printer, copier, and fax for use only by the FOI and Privacy Office.

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Responsibilities of the FOI and Privacy Office

GENERAL TASKS

Responding to formal FOI requests received by the hospital, which includes:

- logging, monitoring, and keeping track of FOI requests;
- coordinating the location, retrieval, and production of records;
- reviewing records;
- documenting the review of and recommendations relating to access decisions;
- severing and preparing records for release;
- estimating and calculating fees;
- preparing all administrative correspondence, such as acknowledgements, fee waivers, and access decision letters, time extension notices, fee notices, and third-party notices;
- responding to privacy complaints or requests for the correction of personal information;
- responding to FOI appeals to, and privacy compliance investigations by, the Information and Privacy Commissioner;
- responding to privacy breaches;
- providing freedom of information and privacy protection advice to hospital departments;
- conducting privacy impact assessments;
- ensuring that the obligations of the Head under FIPPA are formally delegated, and that this delegation is documented;
- creating and maintaining the hospital's personal information banks and directory of records;
- preparing the annual report to the IPC as required by FIPPA;
- making available the hospital's annual reports to the IPC;
- coordinating any proactive disclosure;
- educating and training hospital staff and employees, volunteers, the general public and patients about access to information and privacy rights, roles, and responsibilities, and promoting hospital-wide awareness of the hospital's obligations under FIPPA;
- overseeing the disposal of personal information in the hospital's control in accordance with FIPPA and any other legislation or requirements, see the OHA Records Retention Toolkit: A Guide to Maintenance and Disposal of Hospital Records (January 2007); and
- keeping the Head (Board Chair) informed of FIPPA compliance.

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SPECIFIC TASKS

Create an Inventory of Records to Utilize as a Directory

Such an inventory shall be created initially, prior to January 1, 2012, and updated at least annually. The following is a guide for creating an Inventory:

- **Step 1:** Review existing records. The hospital lead should consult with each department or office that holds records in order to review records, record classification plans, retention and disposal schedules, and other resources that describe hospital record-holdings (for both paper and electronic records).
- **Step 2:** Consolidate the information received from the hospital departments and offices into a formal inventory of records for each department and office.
- **Step 3:** Submit the inventory of records to the FOI and Privacy Committee/FOI and Privacy Coordinator/senior management lead for approval.
- **Step 4:** Circulate relevant sections of the inventory of records to applicable departments and offices for confirmation.
- **Step 5:** Combine the inventory of records from each department and office to create a consolidated inventory. This will be used as a Directory of Records, and will then be used as a resource in responding to FOI requests and conducting the search for relevant records.

Directory of Records

The hospital must provide the Minister of Government Services with certain information about records held at the hospital, and must update this information on an annual basis. Each year, the Government of Ontario will annually publish a Directory of Records, which will provide information about the general records held by institutions subject to FIPPA and include an index of personal information banks. The inventory of hospital records will form the basis of the hospital's initial submission to the Directory of Records.

The Directory of Records is intended to help requesters understand the types of records within a hospital's custody or control and how the hospital retains those records. Once published, this directory can give requesters a better understanding of how to frame an FOI request, whether for general records or for personal information. This directory is also helpful to hospitals because it enables requesters to submit more focused (and narrower) FOI requests. A focused request means the hospital will likely spend less time searching for, reviewing, and consulting records that are ultimately not what the requester is seeking.

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To create and maintain the Directory of Records, the Hospital must provide the Minister of Government Services with certain information about records held at the hospital, and must update that information on an annual basis. The information that must submit includes:

- a description of the organization and responsibilities of the hospital, including details of the programs and functions of each division or branch of the hospital;
- a list of the general classes or types of records prepared by or in the custody or control of the hospital; and
- the title, business telephone number, and business address of the Head (Board Chair).

Personal Information Banks

FIPPA requires that the following types of personal information under the control of the hospital to be included in a personal information bank:

- personal information that is organized or intended to be retrieved by the **individual's name**; and
- personal information that is organized or intended to be retrieved by an **identifying number, symbol**, or other particular assigned to the individual.

Personal information banks can consist of electronic files, paper files, or a combination of both. A personal information bank is part of the hospital's Directory of Records.

Annual Report

Each year, the Head must provide the IPC with a report that discusses the hospital's activities under FIPPA and under PHIPA during the previous year.

The IPC will provide the hospital with instructions and forms for completing this report.

The report must contain the following information with respect to FIPPA:

- the **number of requests** under FIPPA for access to records made to the hospital;
- the **number of refusals** by the Head to disclose a record under FIPPA, the provisions of FIPPA under which disclosure was refused, and the number of occasions on which each provision was invoked;
- the **number of uses or purposes for which personal information is disclosed** where the use or purpose is not included in the statements of uses and purposes set forth under clauses 45(d) and (e) of FIPPA;
- the **amount of fees collected** by the hospital under section 57 of FIPPA; and
- any **other information** indicating an effort by the hospital to put the purposes of FIPPA into practice.

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Develop Communication and Training

A variety of hospital stakeholders will need to receive communications regarding the implementation of FIPPA. The communications strategy must encompass these key stakeholders, both internal and external to the hospital.

Key stakeholders may include:

- patients and patients' families
- volunteers
- donors
- board
- Local Health Integration Networks (LHINs)
- local health care providers
- university – for teaching hospitals
- community members
- unions
- ministries
- public health units
- staff – current and former
- legal counsel
- suppliers/consultants/organizations
- local media
- municipalities
- local politicians

Communication can include:


- notices in the press and on the hospital **website** devoted to FIPPA;
- **training**;
- **meetings** with the hospital's management and committees;
- **emails**;
- relying on existing **publications** and creating new ones for the purposes of FIPPA (e.g., hospital memos, reports, or brochures); and
- providing **reference material** and business tools, such as the guidelines, checklists, and other tools included in the OHA FIPPA Toolkit.

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Ongoing Training and Awareness

The FOI and Privacy Office will need to conduct periodic refresher training to ensure that the awareness of FIPPA remains a priority. Training sessions should also be incorporated into new employee and volunteer orientation programs, as well as programs for new members of the hospital board.

References – OHA Freedom of Information Toolkit: A Guide to Implementing the Freedom of Information and Protection of Privacy Act, 2011

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| | Board of Directors |
| | November 25, 2011 |
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| | Georgie Hari, Chair |