

MANITOULIN HEALTH CENTRE	POLICY: BOARD-11-08	DEPARTMENT: Board
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SUBJECT MATTER: Freedom of Information and Protection of Privacy Act – Principles	
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.

It is the responsibility of the Hospital to safeguard and hold in confidence that information which must not be disclosed and to provide in a transparent manner that information which must be made available to individuals or organizations that may request it.

Unless an exclusion or exemption is determined, requests received for release of information shall be facilitated by MHC, in accordance with the Freedom of Information and Protection of Privacy Act (FIPPA), which is effective as of January 1, 2012.

It is noted that the Act only applies to records that came into the custody of hospitals on or after January 1, 2007. Records collected prior to this period of time do not fall under the authority of FIPPA.

Principles – Freedom of Information and Protection of Privacy

Freedom of Information

FIPPA provides a right of access to any record that is in the custody or control of public sector institutions (including hospitals). This right of access is provided in accordance with the following principles:

- (i) information should be made available to the public;
- (ii) necessary exemptions from the right of access should be limited and specific; and
- (iii) decisions related to disclosure of the hospital's information should be reviewed independently of the hospital controlling that information (i.e., by the Information and Privacy Commissioner, or IPC).

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The concept of a record is extremely broad and includes email, reports, letters, audio and video recordings, and records that can be created from existing data stored on a computer. Also, it is not limited to the final form of a document; working copies and drafts of reports and letters are also records. Handwritten notes and other notations made on working copies, drafts, and final forms of documents are also considered parts of records.

Some of the key features of the right of access include:

- The right of access applies to records (whether general records or personal information) that came into the custody or control of the hospital **on or after January 1, 2007**.
- The right of access applies to **existing records**. In other words, the hospital does not have an obligation to create a record in response to an access request under FIPPA.
- The right of access is limited by exclusions (meaning certain records are not covered by the Act) and certain mandatory or discretionary exemptions (meaning that the content of some records must or may be withheld from the requester).
- If portions of a record are exempt from disclosure, the record must be **severed** so that the non- exempt portions are disclosed to the requester.

Any person may make a request for access to records under FIPPA. Individuals and organizations – including corporations, partnerships, and sole proprietorships – are considered as persons for this purpose. There are no restrictions related to a person’s citizenship or place of residence. Hospitals can expect to receive requests for information not only from the general public, but also from individuals such as lawyers and elected officials, as well as from businesses and the media.

Protection of Privacy

The second purpose of FIPPA is to protect the privacy of individuals. The Act does this by restricting how and why an institution can collect, use, disclose and retain personal information, and by providing individuals with a right of access to that information.

Privacy protection is consistent with the role of hospitals as public institutions and will strengthen the relationship between hospitals and the communities they serve.

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Many of the privacy obligations in FIPPA are very similar to the personal health information obligations in PHIPA. It is important to note, however, that PHIPA governs how a hospital handles personal health information, and that FIPPA does not apply to personal health information (as defined in PHIPA). Personal health information must continue to be handled in accordance with PHIPA.

Authority and Obligations of Key Individuals under FIPPA

Head of the Institution – for purposes of the Act, this refers to the Board Chair of the hospital. The Board Chair is responsible for ensuring clear delegation of authority to the Senior Management Lead (CEO) and Freedom of Information/Privacy Officer and for the overall compliance with the Act.

Senior Management Lead – The CEO is MHC’s designated Senior Management Lead for FIPPA and oversees the specific powers and duties performed by the Freedom of Information/Privacy Office.

Freedom of Information/Privacy Officer – The FOI/Privacy Officer is the person delegated to work in concert with the CEO and to implement the processes required to manage MHC’s FIPPA activities. These include policies and procedures, training, receiving and responding to information release requests, and other elements contained within the Act.

Processing Requests for Release of Information

All requests for release of information shall be brought to the Freedom of Information/Privacy Officer for processing. If the CEO is available, the two individuals shall work in concert with respect to the request. If not, either person shall have full authority to act on behalf of the organization with respect to the request.


Due consideration shall be exercised as to any exemptions or exclusions to release of information which may apply to the requested information. All appropriate and allowable charges for reasonable cost recovery shall be determined. A response to the request shall be issued in a manner and timeframe that is allowable under the Act.

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Privacy Complaints and Access Appeals

MHC shall respond to all privacy complaints and access to information appeals in an appropriate manner, in accordance with the Act, utilizing the same authority designation as is used for processing requests for information; the CEO and/or Freedom of Information/Privacy Officer shall have the designated authority to respond to complaints of this nature.

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

	Board of Directors
	November 25, 2011
	
	Georgie Hari, Chair