

MANITOULIN HEALTH CENTRE	POLICY: BOARD-11-06	DEPARTMENT: Board
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SUBJECT MATTER: Freedom of Information and Protection of Privacy Act – Exclusions and Exemptions	
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 the issues around Exclusions and Exemptions to release of information.

EXCLUSIONS:

Some types of records are **excluded** from FIPPA meaning that FIPPA does not apply to these records – they are removed from the scope of the Act. The public does not have a right of access to excluded records.

The types of information or records that are excluded from FIPPA by operation of other Acts are:

- *personal health information (as defined in the Personal Health Information Protection Act - PHIPA);*
- *quality of care information (as defined in the Quality of Care Information Protection Act – QCIPA)*
- *ecclesiastical records of a church or religious organization that is affiliated with the hospital;*
- *records relating to the operations of a hospital foundation;*
- *administrative records of a member of a health profession listed in Schedule 1 to the Regulated Health Professions Act, 1991, that relate to that member's personal practice;*
- *records relating to charitable donations made to the hospital;*
- *records relating to the provision of abortion services;*
- *records relating to certain labour relations, employment, and placement matters;*
- *records relating to certain appointment and privileging matters;*
- *certain records respecting or associated with research (including clinical trials); and*
- *certain records of teaching materials collected, prepared, or maintained by an employee of the hospital or a person associated with the hospital for use at the hospital.*

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EXEMPTIONS:

FIPPA contains two types of exemptions – mandatory and discretionary:


- **Mandatory exemptions:** If the FOI/PHIPA Officer and/or CEO determine that a record (or part of a record) falls within a mandatory exemption, the Head must refuse access to the record (or part of the records). These include third-party information and that which involves unjustified invasion of personal privacy.

- **Discretionary exemptions:** If it is determined that a record (or part of a record) falls within a discretionary exemption, the hospital has the discretion to refuse access to the record (or part of the record).

Public Interest Override – where a compelling case of public interest is determined, information may need to be disclosed that would have otherwise fallen under an exemption.

The FOI/PHIPA Officer and/or CEO are responsible for making the determination as to whether or not an exemption or exclusion applies to the requested information. If the requested information is not released, the requester shall receive a clear written explanation concerning the denial. If the requester does not agree with this decision, they have the right under the Act to appeal this decision to the Office of the Commissioner.

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