

WOOLWICH COMMUNITY HEALTH CENTRE

POLICY AND PROCEDURES MANUAL

8.3 COLLECTION, USE AND DISCLOSURE OF PERSONAL INFORMATION AND PERSONAL HEALTH INFORMATION

Policy Statement

WCHC is committed to respecting clients' privacy. This policy has been developed to ensure that WCHC, to the extent that it may be deemed to engage in "commercial activities", complies with the federal privacy legislation (Personal Information Protection and Electronic Documents Act, PIPEDA) and provincial legislation (Personal Health Information Protection Act, PHIPA), which applies to all persons and organizations deemed to be "health information custodians".

The WCHC Director of Clinical Services and Satellite Sites has been identified as WCHC's Privacy Officer and as the contact person for issues related to WCHC's compliance with the PHIPA and PIPEDA.

When clients provide Personal Information (PI) or Personal Health Information (PHI) to WCHC, their provision of such information signals their agreement and consent that WCHC may collect, use and disclose their PI or PHI in accordance with this policy. If clients do not agree with these terms, they are requested not to provide any PI or PHI to WCHC. Certain WCHC services can only be offered if clients provide PI or PHI to WCHC. Consequently, if clients choose not to provide WCHC with required PI or PHI, WCHC may not be able to offer those services.

Context

For the purposes of this Policy:

- "Client" means an individual who may or has used the services or programs of WCHC;
- "Health information custodian" means an individual provider or an organization, such as a hospital, nursing home, community health centre, etc. that collects, uses and discloses personal health information. In the case of an organization, its employees are considered "agents" of the health information custodian and therefore share the responsibilities and obligations of the organization as a health information custodian.
- "Personal Information", hereinafter referred to as PI, means any information, recorded in any form, about an identified individual, or an individual whose identity may be inferred or determined from such information.
- "Personal Health Information", hereinafter referred to as PHI, means any information that specifically describes or relates to the health of an identified individual.

This policy governs Personal Information (PI) and Personal Health Information (PHI) collected from and about individuals who are or may become clients of WCHC programs and services, and those other individuals outside of WCHC with whom WCHC works. It does not govern Personal Information and Personal Health Information collected from and about WCHC employees or volunteers, the protection of which is governed by WCHC's Human Resources policies. This policy also does not cover aggregated data from which the identity of an individual cannot be determined. WCHC retains the right to use aggregated data in any way that it determines appropriate.

Procedures

WCHC will post information about this policy at all sites. Postings will include clear language descriptions of:

- WCHC's information practices regarding the collection, use, management and disclosure of Personal Information and Personal Health Information
- Procedures for clients to access their health information
- The name of WCHC's privacy officer
- Procedures for making complaints about a breach of privacy legislation and/or to the privacy commissioner.

8.3.1 Collection and Use of Personal Information and Personal Health Information

Policy Statement

WCHC uses PI and PHI provided verbally or in writing by clients in order to:

- Provide clients with health care services and treatments, and personal, group and community health promotion services;
- Manage relationship with clients;
- Meet any legal or regulatory requirement; and
- Such other purposes consistent with the foregoing purposes.

WCHC's use of PI and PHI is limited to these purposes. WCHC does not sell, trade, barter or exchange for consideration any PI and PHI it has obtained. Unless permitted by law, no PI and PHI is collected about a client without first obtaining the consent of the individual to the collection, use and dissemination of that information. However, consent may be both express (verbal or written) or implied (e.g., if a client provides PHI to a health information custodian, then it is understood that he or she has implied consent to the collection, use and disclosure of that information for the purposes of receiving health care) . Personal information and personal health information are collected, to the extent possible, directly from the individual concerned.

8.3.2 Disclosure of Personal Information and Personal Health Information

Policy Statement

In order to meet client needs, PI and PHI provided by clients may be shared between inter-disciplinary team members of WCHC. Where a client is referred or transferred to another health care provider outside of WCHC, the client's implied or express consent will be obtained prior to disclosing the client's Personal Information. In the event that WCHC seeks to disclose PI or PHI for purposes other than providing health care or assisting in the provision of health care, then express consent from the client will be required, unless the circumstances are such that use/disclosure may be justified or permitted by law, in keeping with the situations outlined in the Context below.

Context

WCHC may disclose PI and PHI of clients to organizations or individuals that perform services on behalf of WCHC (e.g., LifeLabs which analyzes bloodwork, etc.) or upon referral from WCHC (e.g., specialists), for the purpose of providing health care or assisting in providing health care. Consent to such disclosure will be understood as implied unless the client has provided notice to WCHC that they are withdrawing their consent to such disclosure. If the client has withdrawn or refused consent to disclose PI or PHI that is relevant to the provision of health care or to assisting in the provision of health care, and WCHC deems such information to be reasonably necessary for the provision of health care or for assisting in the provision of health care, then WCHC will advise the other organization or individual that full disclosure has been prevented.

However, there are circumstances where the use and/or disclosure of PI and PHI may be justified or permitted or where WCHC is obliged to disclose information without consent. Such circumstances may include:

- Where required by law or by order or requirement of a court, administrative agency or other governmental tribunal.
- Where WCHC believes, upon reasonable grounds, that it is necessary to protect the rights, privacy, safety or property of an identifiable person or group.
- Where it is necessary to permit WCHC to pursue available remedies or limit any damages that WCHC may sustain.
- Where the information is public.
- Providing health care, if the disclosure is reasonably necessary for the provision of health care and it is not possible to obtain the client's consent in a timely manner, and where the client has not expressly instructed WCHC not to make the disclosure.
- Contacting a relative or friend of the client if the client is injured, incapacitated, or ill, and is unable to give consent personally.

- Conducting an audit or reviewing an accreditation, if the audit or review is related to services provided by WCHC, provided that the person performing the audit or review may not remove any records of PI or PHI from WCHC.
- Administering or enforcing standards, statutes and acts related to Regulated Health Profession colleges.
- Complying with the statutory functions of the Public Guardian and Trustee, Children’s Aid Society, and Children’s Lawyer.
- Planning and delivering WCHC programs and services.
- Allocating WCHC resources to any program or services.
- Evaluating or monitoring of any WCHC programs and services.
- Risk management, error management, or activities to improve the quality of care or the quality of any related WCHC program or services.
- Processing, monitoring, verifying or reimbursing claims for payment under any Act or program administered by the Minister of Health and Long-Term Care.
- For research conducted by WCHC or another researcher, provided that the requirement specific to research under the Health Information Protection Act is met.

Where obliged or permitted to disclose information without consent, WCHC will not disclose more information than is required.

8.3.3 Accuracy of Personal Information and Personal Health Information

Policy Statement

WCHC tries to ensure that any PI and PHI provided by its clients and in its possession is as accurate, current and complete as necessary for the purposes for which WCHC uses that data. Information contained in files that have been closed is not actively updated or maintained. WCHC will clearly describe, to the person to whom it discloses PI or PHI, any known limitations on the accuracy, completeness or up-to-date character of such information.

8.3.4 Retention and Destruction of Personal Information and Personal Health Information

Policy Statement

WCHC retains PI and PHI in keeping with applicable legislation (e.g., health records), and where there are no legislative requirements, for as long as WCHC believes it is necessary to fulfill the purpose for which it was collected. When PI and PHI are no longer required to be retained, they shall be destroyed.

8.3.5. Security of Personal Information and Personal Health Information

Policy Statement

WCHC tries to maintain adequate physical, procedural and technical security with respect to its offices and information storage facilities so as to prevent any loss, misuse, or unauthorized access, disclosure, modification or destruction of PI and PHI. WCHC further protects PI and PHI by restricting access to it to those employees that the management of WCHC has determined need to know that information in order to provide services. Employee misuse of PI and PHI is treated as a serious offence for which disciplinary action may be taken. In the event that client PI or PHI is stolen, lost¹ or accessed by unauthorized persons, WCHC will notify the client at the first available opportunity. Also see Policy 8.6 Notice of Theft, Loss or Unauthorized Disclosure of Client Records

¹ Misplaced and not located for more than 2 months

8.3.6 Access to and Corrections of Personal Information and Personal Health Information

Policy Statement

WCHC permits access to and review of PI and PHI held by WCHC about a client, by the client concerned. If an individual believes any PI and PHI concerning that individual is not correct, that person may request an update of that information by sending a request to WCHC's Privacy Officer. WCHC will correct client information if the client has satisfied WCHC that the information is incomplete or inaccurate for the purposes for which WCHC uses that information.

Context

WCHC is under no obligation to correct client information if:

- WCHC did not originally create the record and does not have the sufficient knowledge, expertise or authority to correct the information;
- The information sought to be corrected comprises professional opinions or observations that WCHC has made in good faith regarding the client.

In such instances, WCHC reserves the right not to change any PI and PHI but will append any alternative text the individual concerned believes appropriate.

An individual may also request that WCHC delete an individual's PI and PHI from WCHC's computer information system and records. However, due to technical constraints and the fact that WCHC backs up its systems, PI and PHI may continue to reside in WCHC's systems after deletion. Individuals, therefore, should not expect that their PI and PHI would be completely removed from WCHC systems in response to an accepted request for deletion.

Procedures

- Within 30 days of receiving the client request to access his/her information, WCHC will make available and provide an explanation of the information, if requested and reasonably practical. This initial 30-day period may be extended if:
 - a lengthy search is involved, or if consultations with persons not employed by WCHC are necessary and difficult to complete within the original 30 days, or
 - if numerous pieces of information are involved and the search would unreasonably interfere with the operations of WCHC.
- WCHC providers are strongly encouraged to review information in person, with the client, and where copies of such information are provided to the client, both client and provider should initial each page of information reviewed. WCHC may charge a fee for providing copies of patient information for the purposes of reasonable cost recovery of photocopying costs, and in keeping with provincial regulations; an estimate of any such fee will be provided to the client prior to provision of the information.
- WCHC reserves the right to decline access to PI and PHI where the information requested:
 - Would disclose the PI and PHI of another individual or of a deceased individual;
 - Is subject to solicitor-client or litigation privilege;
 - Could reasonably result in: (i) serious harm to the treatment or recovery of the individual concerned; (ii) serious emotional harm to the individual or another individual; or (iii) serious bodily harm to another individual;
 - May harm or interfere with law enforcement activities and other investigative or regulatory functions of a body authorized by statute to perform such functions;
 - Is not readily retrievable and the burden or cost of providing would be disproportionate to the nature or value of the information;
 - Does not exist, is not held, or cannot be found by WCHC;
 - Constitutes raw data from standardized psychological tests or assessments;
 - Is Quality of Care information as defined in the Quality of Care Information Protection Act.
 - Is third party information that was provided explicitly or implicitly in confidence.
- Where information will not or cannot be disclosed, the individual making the request will be provided with the reasons for non-disclosure.

- WCHC will not respond to repetitious or vexatious requests for access. In determining whether a request is repetitious or vexatious, it will consider such factors as the frequency with which information is updated, the purpose for which the information is used, and the nature of the information.
- To guard against fraudulent requests for access, WCHC will require sufficient information to allow it to confirm the identity of the person making the request before granting access or making corrections.
- Each page of PI or PHI that is copied and released to the client, at the request of the client, will be stamped “Copied and released at client’s request”.

8.3.7 Privacy Complaints Procedure

Policy Statement

Clients who have provided WCHC with PI and PHI have a right to make a complaint and have it investigated and resolved. All privacy complaints will be treated seriously, dealt with promptly and handled in a confidential manner. WCHC will respond to privacy complaints within a reasonable timeframe of 30 days or as soon as practicable.

Context

A privacy complaint relates to any concern or dispute that a client may have with WCHC’s privacy practices as they relate to the client’s personal information. This could include matters such as how PI and PHI is collected, stored, used or disclosed, or how access is provided.

WCHC cannot address anonymous complaints insofar as WCHC would be unable to investigate and follow-up such complaints. However, in the event that an anonymous complaint is received, WCHC will note the issues raised and try and resolve them appropriately.

Procedures

- If a client has a privacy complaint, the client’s usual provider will be the first contact person to discuss or resolve the complaint. The Director of Clinical Services and Satellite Sites may be accessed by the client and/or the provider to assist with resolving the complaint. If the privacy complaint is not resolved, the matter will then be referred to WCHC’s Privacy Officer.
- Once a privacy complaint has been made, the point of contact can then resolve the matter in a number of ways:
 - Request further information and investigation: The initial contact may request further information from the client (as many details as possible including details of any relevant dates and documentation.) This will enable the contact to investigate the complaint and determine an appropriate solution. All details provided will be kept confidential. The initial investigation should be completed within 10 working days. It may be necessary to contact others in order to proceed with the investigation.
 - Discuss options: The WCHC contact and client may discuss options for resolution and suggestions about how the matter might be resolved.
 - Discussion with any other parties: If the client complaint deals with the conduct of WCHC employees, the contact person will raise the matter with the employee concerned and the employee’s supervisor, and seek their comment and input in the investigation stage. WCHC may also discuss the matter with legal counsel or other advisors.
 - Refer to Privacy Officer: If the client complaint is not resolved with the initial contact, it will be referred to WCHC’s Privacy Officer. The Privacy Officer would be provided with the history and may discuss the complaint with the health centre staff, or other parties that are involved.
 - Resolution: If the client complaint is valid, the client will be informed of WCHC’s steps to resolve the complaint and prevent the problem from recurring. If the complaint is not valid, or cannot be resolved to the client’s satisfaction, but this procedure has been followed, the decision of the Privacy Officer will be final.
 - If after the above steps have been followed the client is still dissatisfied with the outcome, the client will be advised to refer the complaint to the federal or provincial Office of the Privacy Commissioner, as applicable.
 - WCHC will keep a log of all privacy complaints

8.3.8 Withdrawal of Consent to Disclose Personal Health Information

Policy Statement

Clients who have provided WCHC with PI and PHI have a right to withdraw their previously provided consent to disclose such information, or withhold consent to disclose PI or PHI in the future. If a client withdraws or withholds consent, this must be documented in the client record (See Appendix 8.2). In addition, the provider must outline for the client the potential consequences of withdrawing or withholding consent.

Context

Individuals are permitted to block personal health information provided to particular individuals or organizations including staff at the WCHC. This means the individual expressly withholds or withdraws consent for release of personal health information. This might include an item of information or their entire record. This is referred to as a “lock-box” provision. A client may reverse this decision to ‘lock’ their PI or PHI at any time; this decision should also be clearly documented in the client record.

Procedures

- If the client requests that personal health information not be forwarded to particular individuals or organizations, and the provider agrees, the provider must:
 - explain to the client the reasonably foreseeable consequences of a refusal to consent to the disclosure
 - if the provider feels the third party needs the information, advise the third party or staff member of WCHC (in person, by phone or in writing) that some relevant information has been withheld at the direction of the client. This is what is called the “lock-box provision” and the Withdrawal of Consent Form is completed, included in the client chart, and the client chart is clearly marked to alert providers to the ‘lock-box’ situation – see Appendix 8.2.
 - note conversations in the client’s chart;
- The receiving health information custodian or staff member of WCHC may choose to explore the matter of the “locked” personal health information with the individual and seek his/her consent to access and use that information. If the client informs the third party or staff member at WCHC that the client agrees to have the information “unlocked”:
 - the disclosing health information custodian would need to obtain the written consent of that individual to then disclose the locked information.
- If the provider believes that disclosure is necessary to eliminate or reduce significant risk of serious bodily harm to a person or persons, he/she must:
 - disclose personal health information to the third party or staff member of WCHC
 - note disclosure and circumstances surrounding it in client’s chart and, if appropriate, inform the client that disclosure has occurred

8.3.9 Amendment of WCHC Practices and This Policy

Policy Statement

This policy is in effect as of January 1, 2004. WCHC will from time to time review and revise its privacy practices and this policy. In the event of any amendment, an appropriate notice will be communicated to clients and others in an appropriate manner. Policy changes will apply to the information collected from the date of the revised policy as well as to existing information held by WCHC.