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Parent Policy: Health Information Privacy & Security Policy

Collection, Use and Disclosure of Health Information Procedure

Office of Administrative Responsibility:	Dean's Office, Faculty of Medicine & Dentistry
Approver:	Dean's Executive Committee, Faculty of Medicine & Dentistry
Scope:	Compliance with this Faculty policy extends to all members of the Faculty of Medicine & Dentistry

Overview

The Alberta *Health Information Act* (HIA) provides rules for the collection, use and disclosure of identifying health information. Custodians of health information are bound by these rules and this procedure provides guidance for their application by individuals handling Health Information that is within the scope of this Procedure.

Further information about processing requests and documenting consent, including sample letters and forms, can be found by referring to the Alberta Health publication: Health Information Act Guidelines and Practices (see below in Related Links), and by contacting the Faculty of Medicine & Dentistry's (FoMD's) Health Information Privacy Advisor.

Procedure:

1 General Rules

- 1.1 Individually identifying Health Information will not be collected, used or disclosed if aggregate or other non-identifying health information is adequate for the intended purpose.
- 1.2 Individuals will collect, use or disclose the least amount of Health Information that is necessary to carry out their work activities.
- 1.3 Before using or disclosing Health Information, individuals will make a reasonable effort to ensure that the information is accurate and complete.
- 1.4 Individuals will not use identifying Health Information to market any service for a commercial purpose or to solicit money without the express consent of the individual who is the subject of that information.
- 1.5 Individuals who participate in Alberta Health Services (AHS) operated clinical information systems (CIS) such as Connect Care, will adhere to AHS policies and procedures and/or specific system policies and procedures.

2 Collection and Use of Identifying Health Information

- 2.1 Health Information will be collected directly from the patient who is the subject of that information, or an authorized representative, unless indirect collection is authorized by the HIA. Examples of in which indirect collection may be authorized include:

- When the patient authorizes collection from a third party. This authorization can be verbal, however, it should be documented and, whenever possible, the Custodian should send a letter to the individual concerned setting out what he or she has authorized.
- When direct collection would compromise the interests of the patient, the purpose of collection, the accuracy of the information or the safety of another person (e.g. patient is not being completely truthful or cannot remember information).
- When direct collection is not reasonably practicable (e.g. language barrier, or cognitive impairment).
- When information is collected from another custodian during referral or consultative processes.

2.2 When collecting Health Information directly from a patient, the patient will be informed of:

- i. The purpose for which the information is collected,
- ii. The legal authority for the collection (e.g. section 20 of the HIA), and
- iii. The title, business address and business telephone number of an Affiliate who can answer questions about the collection.

Notification may be done by means of posters clearly placed in clinic reception areas or examination/treatment areas, clearly stated upon intake forms, or verbally when appropriate.

2.3 Health Information shall only be used by a Custodian, or at the direction of the Custodian of the Health Information, for the following purposes:

- Providing health services
- Determining or verifying the eligibility of the individual to receive a health service
- Education of health service providers
- Carrying out purposes authorized by federal or provincial legislation (e.g. *Public Health Act*)
- Obtaining or processing payment for health services
- Internal management purposes, including quality improvement and monitoring processes
- Conducting research or performing data matching or other services to facilitate another person's research, or
- Other purposes set out in section 27 of the HIA.

2.4 Health Information shall only be accessed and used by individuals as required to perform their assigned duties, or as otherwise authorized under the HIA. Individuals are not permitted to access their own health information in an electronic medical or dental record, including an AHS CIS such as Connect Care unless access is granted through an appropriately linked patient portal.

3 Disclosure with Consent

3.1 Individuals will obtain written or electronic consent from a patient to disclose identifying Health Information to anyone other than the patient, their authorized representative, or to another Custodian.

3.2 Consent must adhere to requirements set out in section 34(2) of HIA by including, in writing or electronically:

- Authorization for the Custodian to disclose the Health Information,
- The purpose for the disclosure,
- The identity of the recipient,
- An acknowledgment that the subject individual has been made aware of the reasons for the disclosure and the risks and benefits of providing consent or refusing,
- The effective date of the consent, and any expiration date of the consent, and
- A statement that the consent may be revoked by the individual in writing, at any time.

3.3. Disclosure for research purposes shall comply with the HIA. See the Health Research Information Management Procedure.

4 Disclosure without Consent

4.1 Custodians may, but are under no obligation to, disclose identifying Health Information without consent in the following circumstances:

- As per sections 35-40 and 46-47 of HIA.
- To another custodian, or affiliate of a custodian, for the legally authorized uses identified in section 27 of HIA.
- To a researcher who has met the requirements set out in the Health Research Information Management Procedure.

For assistance in determining whether such disclosure is authorized, please contact the FoMD's Health Information Privacy Advisor.

5 In all cases, Custodians must consider the expressed wishes of the patient with regard to his or her Health Information and disclose the least amount of identifying Health Information at the highest level of anonymity that they consider necessary to fulfill the request.

Notation and Notification

5.1 When a record containing Health Information is disclosed, the Custodian or authorized Affiliate will document the following information in the patient's medical or dental record:

- The name of the person to whom the information is disclosed;
- The date and purpose of the disclosure, and;
- A description of the information disclosed.

5.2 Section 5.1 of this Procedure does not apply where the disclosure is from one Custodian to another Custodian, and the information transfer is through a shared electronic medical or dental record system which keeps an electronic log of:

- The name or identifying number of the custodian recipient;
- The date and time of the disclosure; and
- A description of the information disclosed.

Often, the audit trail of the electronic medical or dental record will satisfy this requirement, but it is still the Custodian's duty to ensure this requirement is fulfilled.

5.3 If a Custodian discloses non-identifying Health Information to a non-custodian, the Custodian must inform the recipient that he or she must notify the Alberta Office of the Information & Privacy Commissioner of any intention to use the information for data matching, prior to performing the data matching.

DEFINITIONS

Affiliate	Includes all employees, volunteers, students, residents, fellows and persons contracted to provide services for custodians, or otherwise performing a service for a Custodian. Physicians might also function as Affiliates in their capacity of providing health services on behalf of another Custodian, such as Alberta Health Services or Covenant Health.
Authorized Representative	Means any person who can exercise the rights or powers conferred on an individual under applicable privacy legislation. This includes the right of access to an individual's health information and the power to provide consent for disclosure of such information.

	<ul style="list-style-type: none"> • If the individual is under 18 years of age, and does not understand the nature of the right or power or the consequences of exercising the right or power, by the guardian of the individual; • If the individual is deceased, by the individual's personal representative if the exercise of the right or power relates to the administration of the estate; • A guardian or trustee appointed under the Dependent Adults Act if the right or power related to the powers or duties of the guardian or trustee; • An agent under the Personal Directives Act if the directive so authorizes; • A person who has power of attorney granted by the individual if the exercise of the right or power relates to the powers or duties conferred by the power of attorney; • If the individual is a formal patient as defined in the Mental Health Act, by the individual's nearest relative as defined in the Act if the exercise of the right or power is necessary to carry out the obligations of the nearest relative under that Act. • Any person with written authorization from the individual to act on the individual's behalf.
Consent	<p>Agreement by an individual to the disclosure of their own health information to a third party. The consent must include:</p> <ul style="list-style-type: none"> • An authorization for the custodian to disclose the information specified in the consent • The purpose for which the information may be disclosed • The identity of the person to whom the information may be disclosed • An acknowledgement that the individual providing the consent has been made aware of the reasons why the information is needed and the risks and benefits to the individual of consenting or refusing to consent • The date the consent is effective and the date, if any, on which the consent expires • A statement that the consent may be revoked at any time by the individual providing it. <p>A consent or revocation of consent can be provided in writing or electronically.</p> <p>Electronic consent is valid only if the level of authentication is sufficient to identify the individual who is granting the consent or revoking the consent.</p> <p>In the case of a minor who has consented for diagnosis or health services, consent for the release of information must be obtained from the minor (not the parent or guardian).</p>
Custodian	<p>Includes health service providers who receive and use health information and are responsible for ensuring that it is protected, used, and disclosed appropriately. In the context of the Faculty of Medicine and Dentistry, custodians may include:</p> <ul style="list-style-type: none"> • regulated members of the College of Physicians and Surgeons of Alberta • regulated members of the College of Alberta Denturists; • regulated members of the Alberta Dental Association and College; • regulated members of the College of Registered Dental Hygienists of Alberta;

	<ul style="list-style-type: none"> • regulated members of the Alberta College of Pharmacists; • Alberta Health Services; • Covenant Health. <p>Please note this is not an exhaustive list. For full list of custodians, please refer to definitions in the HIA.</p>
Data Matching	<p>Means the creation of individually identifying health information by combining individually identifying or non-identifying health information or other information from two or more electronic databases, without the consent of the individual.</p>
Diagnostic, treatment and care information	<p>Includes information about the following:</p> <ul style="list-style-type: none"> • the physical and mental health of an individual; • a health service provided to an individual • information about the health service provider who provided a health service to an individual • donation by an individual of a body part or substance, including information derived from the testing or examination of a body part or bodily substance; • a drug as defined in the <i>Pharmacy and Drug Act</i> provided to an individual; • a health care aid, device, product, equipment or other item provided to an individual pursuant to a prescription or other authorization; • the amount of any benefit paid or payable under the <i>Alberta Health Care Insurance Act</i> or any other amount paid or payable in respect of a health service provided to an individual; • any other information about an individual that is collected when a health service is provided to the individual but does not include information that is not written, photographed, recorded or stored in some manner in a record.
Disclosure	<p>Means the release, transmittal, exposure, revealing, showing, providing copies of, telling the contents of, or giving health information by any means to any person or organization. It includes disclosure to another custodian or to a non-custodian.</p>
Health Information	<p>Information that identifies an individual and is stored in any format that relates to: diagnostic, treatment and care information; registration information (e.g. demographics, residency, health services eligibility, or billing).</p>
Non-identifying health information	<p>Information in which the identity of an individual cannot be readily ascertained.</p>
Record	<p>Means a record of health information in any form and includes notes, images, audiovisual recordings, x-rays, books, documents, maps, drawings, photographs, letters, vouchers and papers and any information that is written, photographed, recorded or stored in any manner.</p>

Registration Information	<p>Includes information relating to an individual that falls within the following general categories:</p> <ul style="list-style-type: none"> • Demographic information, including the individual's personal health number • Location information • Telecommunications information • Residency information • Health services eligibility information • Billing information
Researcher	<p>Principal investigator (or co-investigators) involved in clinical research of any kind that necessitates the use of individually identifying diagnostic, treatment and care information or individually identifying registration information, or both.</p>
Use	<p>Means applying health information for a purpose and includes reproducing the information, but does not include disclosing the information.</p>

Related Links

[College of Physicians and Surgeons of Alberta Patient Record Retention Standard of Practice](#)

[Information Privacy Office - HIA webpage](#)

[Faculty of Medicine & Dentistry - Informatics webpage](#)

[Health Information Act](#)

[Health Information Act Designation Regulation](#)

[Health Information Act Alberta Electronic Health Record Regulation](#)

[Health Information Regulation](#)

[Health Information Act Guidelines and Practices](#) (Alberta Health)

[Use and Disclosure of Health Information for Research](#) (OIPC)