

	Client Consent
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Effective Date: Nov 14, 2023

Revision #: 1

SCOPE

All clients.

RATIONALE

To safeguard client rights and to preserve confidentiality.

POLICY

Community Care Peterborough (CCP) will obtain and document informed consent from all clients who request and/or receive service before collecting, using, or disclosing personally identifiable information about the client. All information collected is used for the purpose of providing service, assisting in providing service, or administrative requirements as outlined in ADM-8-10: Privacy and Confidentiality.

Once the initial verbal consent has been obtained from the client/substitute decision maker, CCP has express consent to collect, use, and disclose personal health information until the client's file is discharged in accordance with Service Discontinuation procedures specific to each program, unless the client/substitute decision maker specifically withdraws their consent. Consent is also obtained from the client/substitute decision maker prior to registering a client for each service in accordance with the policies and procedures for the specific program.

As a health information custodian, CCP has implied consent to the collection, use, or disclosure of personal health information with other health information custodians unless the client or their substitute decision maker expressly states otherwise. Express consent is required when CCP is disclosing personal health information outside the client's circle of care.

Clients and their substitute decision makers maintain the right to restrict and withdraw consent.

DEFINITIONS

Personal Health Information (PHI): Identifying information about an individual's health status, health history, health card number, substitute decision maker, eligibility for health-care services, care needs, service plan, payment for care, and provision of



care including identification of persons providing care. Any other information included in a record containing PHI is also included in the definition.

Personal Information: Factual or subjective information, recorded or not, about an identifiable person, including, but not limited to name, home address, telephone numbers, age, sex, marital or family status, financial history, anyone else's opinion about a person, a person's personal views or opinions, and name, address, and phone number of contacts.

Health Information Custodian (HIC): A person or organization who has custody or control of personal health information for the purpose of delivering health care. As a health service provider within the meaning of the *Connecting Care Act, 2019*, CCP is a HIC.

Express Consent: Confirms agreement in clear terms either in writing or verbally. Written consent is placed in the client file. Verbal consent is documented in the client file. Express consent is required when: Giving PHI to someone who is not a HIC; giving PHI to someone who is a HIC, but for a purpose unrelated to health care; or sharing PHI within the agency or giving it to a third party for fundraising or marketing purposes.


Implied Consent: Occurs when an action indicates that consent has been given, although no direct or explicit words of agreement have been expressed. For example, if a Coordinator asks an individual for personal health information in order to register them for service and they answer the questions, consent can be inferred since it can be concluded that the client understands the purpose of the collection.

Informed Consent: Before agreeing to the collection and sharing of PHI, the client/ substitute decision maker is provided with information that a reasonable person would need to make an informed decision about the collection or sharing of their PHI.

Third Party: Individuals or organizations other than the client, substitute decision makers, identified client contacts, or agents of CCP who may request or provide personal information.

Circle of Care: Not a defined term in PHIPA, but a term commonly used to describe the ability of certain HICs to assume an individual's implied consent to collect, use, or disclose PHI for the purpose of providing service, in circumstances defined in PHIPA. Implied consent for the circle of care may be assumed if all of the following six (6) conditions are satisfied:

- i. The custodian must fall within a category of HICs that are entitled to rely

	Client Consent
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- ii. on assumed implied consent; and
- ii. the PHI in question must have been received from the client, their substitute decision maker, or another HIC; and
- iii. the PHI must have been received for the provision of health care to the client; and
- iv. the purposes of the collection, use, or disclosure must be for the purpose of providing health care to the client to whom the information relates; and
- v. in the context of a disclosure, the disclosure must be to another HIC, and
- vi. the HIC that receives the PHI must not be aware that the client has expressly withheld or withdrawn consent.

PROCEDURES

Capacity to Consent

1. Unless there are reasonable grounds to believe otherwise, employees may assume that the client is capable of consenting to the collection, use, or disclosure of their PHI.
2. In cases where the employee judges the client as capable, consent must be sought from the client. An individual is capable of consenting to the collection, use, or disclosure of PHI under *PHIPA, 2004, Section 21 (1)* if:
 - a) The individual is able to understand the information that is relevant to deciding whether to consent to the collection, use or disclosure; and
 - b) the individual is able to appreciate the reasonably foreseeable consequences of giving, withholding, or withdrawing consent.
3. If a client is judged incapable their substitute decision maker may give or refuse consent. The substitute decision maker is one of the following, in the order listed:
 - a) The client's guardian of the person;
 - b) the client's attorney for personal care;
 - c) the client's representative appointed by the Consent and Capacity Board;
 - d) the client's spouse or partner;
 - e) the client's child or parent;
 - f) the client's brother or sister;
 - g) the client's relative; or
 - h) the Office of the Public Guardian and Trustee.

Health Care Consent Act, 1996, Chapter 2, Schedule A, Part II, Section 20 (1)

	Client Consent
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Informed Consent

4. CCP will obtain informed consent to collect, use, or disclose personal health information. Consent is considered informed if the client/substitute decision maker is aware of the following things before giving it:
 - a) Who will be giving out the information;
 - b) who they will be giving information to;
 - c) why this information will be given;
 - d) the nature and extent of the information to be given; and
 - e) the reasonably foreseeable consequences of a refusal to consent to giving out the information.

5. When a referral for service is received from Home and Community Care Support Services, Peterborough Regional Health Centre or other hospitals, primary care providers, or Caredove, informed consent is assumed to have been obtained by the referral source.

Implied Consent

6. During the intake/referral process, consent from a client/substitute decision maker to share identifying information for the purpose of facilitating a referral is implied. The client/referral source will be informed that information is being documented.

Express Consent

7. The name and phone number of one or more emergency contacts will be sought from the client/substitute decision maker during the intake/assessment process. Employees will ensure that in providing this information, the client/substitute decision maker is aware they are giving consent to contact these individuals regarding the client's services provided by CCP and in an emergency situation.

Disclosing Personal Health Information

8. Client information may be shared with the client's "circle of care," which includes:
 - a) CCP employees and volunteers who need to know to provide service;
 - b) other health care providers who are not CCP employees but may be required to assist in providing health care, including primary care providers, Home and Community Care Support Services, Emergency

	Client Consent
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- Medical Services, Police Services, and other community support services;
and
c) other individuals as identified by the client/substitute decision maker.
9. Information is disclosed internally on a need to know basis and is limited to the information that is required for an employee, volunteer, or brokered helper to complete their duties.
 10. Confidentiality and informed consent will lapse in the following circumstances:
 - a) Subpoena or warrant;
 - b) the client is suspected to be a danger to themselves or to others;
 - c) the client is suspected to be abused;
 - d) Any other circumstance as defined in PHIPA section 38-50 ; and
 - e) in all incidences of suspected abuse. CCP employees have a legal responsibility to report all incidences of suspected child abuse to the Children's Aid Society.
 11. Client information may be shared with a third party requesting confidential information that was not initially identified by the client as part of their circle of care with express consent only, such as:
 - a) The third party has obtained and presented to CCP a signed release from the client for the information requested; or
 - b) CCP obtains oral or written express consent from the client/substitute decision maker and the consent is documented in the client file.
 12. When personal and confidential information is being shared externally, CCP will document with whom it was shared, the type of information shared, and how it was shared.
 13. When personal and confidential information is being shared externally, CCP will document any restrictions including time limitations.
 14. When CCP discloses PHI to others, it is required to disclose when it believes the information is inaccurate or incomplete, including when there may be missing information which could negatively affect client care.
 15. When CCP discloses PHI to another HIC, the organization will advise that the information is incomplete if a client has placed limits on their consent.

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Withdrawal of Consent

- 16. A client can withdraw their consent at any time. The revocation of consent shall not have retroactive effect.
- 17. If the withdrawal of consent will compromise client care, the effect of the withdrawal should be discussed with the client and/or their substitute decision maker and this conversation should be well documented and placed in the client’s file.
- 18. The Coordinator or designate will document the client's withdrawal of consent in the client file. Further information will not be shared without express consent.

RELATED POLICIES

ADM-5-20: Abuse Prevention, Intervention, and Reporting
 ADM-8-10: Privacy and Confidentiality
 CLI-1-20: Client Intake and Assessment
 All Program Policies

RELATED DOCUMENTS

Client Consent to Share Personal Health Information Form
 Connecting Care Act, 2019
 Health Care Consent Act, 1996
 Information and Privacy Commissioner of Ontario, *Circle of Care: Sharing Personal Health Information for Health-Care Purposes*, August 2015
 Personal Health Information Protection Act, 2004

REVIEWS AND REVISIONS

Date Approved (mmm dd, yyyy)	Comments
Sep 13 2018	Developed policy
Nov 14, 2023	Revised policy

Next Review Date:	Nov 2026
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