

**SCOPE**

All clients.

**RATIONALE**

To safeguard client rights and to preserve confidentiality.

**POLICY**

Community Care Peterborough 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.

Once the initial verbal consent has been obtained from the client/substitute decision maker Community Care Peterborough has express consent to collect, use, and disclose personal health information for the purpose of providing service or assisting in providing service to the client, unless the client/substitute decision maker specifically withdraws their consent.

As a health information custodian, Community Care Peterborough 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 Community Care Peterborough 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, eligibility for health-care services, and care needs.

**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 service provider within the meaning of the *Home Care and Community Services Act, 1994*, Community Care Peterborough is a HIC.

**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.

**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.

**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.

## **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))

**Informed Consent**

4. Consent to collect, use, or disclose personal health information 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 the LHIN Home and Community Care, Peterborough Regional Health Centre, or primary care providers, 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 recorded.

**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 Community Care Peterborough and in an emergency situation.

**Disclosing Personal Health Information**

8. When Community Care Peterborough 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.

9. Client information may be shared with the client's "circle of care," which includes:
  - a) Community Care Peterborough employees and volunteers who need to know to provide service;
  - b) Other health care providers who are not our employees but may be required to assist in providing health care, including primary care providers, LHIN Home and Community Care, Emergency Medical Services, Police Services, and other community support services; and
  - c) Other individuals as identified by the client/substitute decision maker.
  
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 him or herself or to others;
  - c) the client is suspected to be abused; and
  - d) Community Care Peterborough 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 when:
  - a) The third party has obtained and presented to Community Care Peterborough a signed release from the client for the information requested; or
  - b) Community Care Peterborough obtains express consent from the client/substitute decision maker using the form *Client Consent to Share Personal Health Information*; or
  - c) in situations where a written consent form is difficult to obtain, the consent is required immediately, and the information to be released is straight forward and not of a highly personal nature, then verbal consent may be obtained. This verbal consent will be noted on the client's file and when at all possible, it will be followed up with a written consent.

**Withdrawal of Consent**

12. A client can withdraw their consent at any time. The revocation of consent shall not have retroactive effect.
  
13. If the withdrawal of consent will compromise client care, the effect of the withdrawal should be discussed with the client and this conversation should be well documented and placed in the client's file.

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14. 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.
15. If applicable, the Coordinator or designate will provide the phone number to withdraw consent for the Integrated Assessment Record (IAR).

Approved:           D. Belair            
(Signature – Executive Director)

Date:           Sept. 13, 2018          

**REFERENCE**

ADM-8-10: Privacy and Confidentiality

CLI-1-20: Client Intake and Assessment

ADM-5-20 Abuse Prevention, Intervention, and Reporting

*Client Consent to Share Personal Health Information form*

