 Acclaim Health	CLIENT SERVICES MANUAL
SECTION 2	DEPARTMENT
Consent and Privacy	Organization
POLICY NAME	POLICY #
Privacy of Personal Health Information	CSP 02-03-10

Purpose

To provide direction on how Acclaim Health will comply with the Ontario Personal Health Information Protection Act, 2004 (PHIPA).

Definitions

“Circle of Care” is a term that refers to those in the health care team who are actively involved in providing direct care or assisting in the provision of health care to a specific individual.

“Healthcare” means any observation, examination, assessment, care, service or procedure that is done for a health-related purpose and that,

- a) Is carried out or provided to diagnose, treat or maintain an individual’s physical or mental condition,
- b) Is carried out or provided to prevent disease or injury or to promote health, or
- c) Is carried out or provided as part of palliative care, and includes,
- d) A community service that is described in subsection 2(3) of the *Home Care and Community Services Act, 1994* and provided by a service provider within the meaning of the Act.

“High Profile Client” means a client on service or their family member who is in the public eye or is an employee or volunteer of Acclaim Health.

“Substitute Decision Maker (SDM)” means someone who is authorized to give or refuse consent for release of personal health information on a person’s behalf if not mentally capable, as per the Substitute Decisions Act.

“Text” means and is not limited to Facebook Messenger, BBM, WhatsApp, Text Message (SMS) and Multimedia Message (MMS).


“Third Party Hosted Network or System’ means a system such as AlayaCare, Health Partner Gateway (HPG) or the Integrated Assessment Record (IAR).

“Use” means to view, handle or otherwise deal with the information.

“Virtual Care Technology” means a system approved for conducting virtual visits/meetings with clients such as Ontario Telemedicine Network (OTN) or AlayaCare system.

Scope

This policy applies to all persons with access to or in possession of personal health information of Acclaim Health clients.

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Policy

Acclaim Health meets the definition of a ‘health care custodian’ and ‘recipient’ in PHIPA and is committed to protecting the privacy and confidentiality of personal health information of clients, regarding the access, collection, use, retention, correction, transfer and disclosure of personal health information. Clients or their substitute decision maker (SDM), must consent to the release of personal health information (PHI) outside the circle of care and in the event of a change to how the information will be used. All personal health information in Acclaim Health’s possession in hard copy or within the Acclaim Health network or a third party hosted network or system is confidential.

Consequences

Failure to do so will result in progressive disciplinary action up to and including termination of employment, possible criminal charges, fines levied by the Information and Privacy Commissioner of Ontario or other, and notification to the appropriate regulatory body, where applicable.

Procedure


1.0 Personal Health Information Collection, Use and Retention

1.1 Personal health information identifying information may include:

- Name, address, phone number
- Date of birth
- Health card number
- Current and past medical diagnoses
- Personal health and social history (including family information)
- Allergies and medications
- Spoken languages
- Reason(s) for services / plan of service
- Special instructions regarding who can access the health information.
- Client’s photographic image
- Billing information pertaining to services received

1.2 Personal health information is used to:

- Assess client care needs based on the information collected
- Plan or provide health and social services relevant to client needs
- To complete mandatory reporting, where applicable
- Share information with others involved in planning and providing client care, a third party hosted system, where applicable
- Monitor and evaluate the quality of services

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1.3 The client's personal health information that is required to be collected should be only the amount of information necessary for that purpose.

1.4 Clients on service who meet the 'high profile' criteria will be tagged on AlayaCare.

1.5 Personal health information will be secured as per the *Data Security* policy.

1.6 Personal health information will be retained as per the *Access, Retention and Destruction of Client Records* policy.

2.0 Accessing Health Information

2.1 Users of Third party hosted networks and systems such as AlayaCare, Health Partner Gateway and the Integrated Assessment Record must acknowledge their understanding of the Privacy Statement each time they log onto the system and comply.

2.2 Acclaim Health staff are only authorized to view client records of client's within their circle of care. Accessing information for clients who are not within the individual's circle of care will constitute a breach and they will be subject to progressive discipline, up to an including termination, and possible criminal charges. Refer to the *Privacy Complaint or Breach Policy* for more information.


2.3 If the health record is in the client's home, the client has unlimited access to that record. The client may also request that their record be maintained at the Acclaim Health office.

2.4 For a health record maintained in the Acclaim Health office or electronically, the client can request a copy of their health record (PHIPA Section 52-54). In most cases, Acclaim Health may take up to thirty (30) days to respond to such a request. Procedures to follow in the event that a client/substitute decision maker requests access to a record can be found in the *Request to Obtain Client Record* Policy.

2.5 Employees are not permitted to view/access their own health information or that of a family member without consent from the Privacy Officer.

3.0 Sharing, Transfer and Disclosure of Personal Health Information

3.1 Personal health information is shared with health team members or 'circle of care' with the client's expressed consent. Where possible, consent will be written. Consent, written or verbal, will be documented. The client has the right to decide if their personal health information may be shared. All exceptions to the sharing of client information will be recorded and respected. The client is informed that a decision to withhold personal health information may limit Acclaim Health's ability to meet the client's needs.

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3.2 The client's substitute decision-maker (SDM), as determined by the *Health Care Consent Act 1996*, may provide consent for the sharing of the client's health information only if the client is not mentally capable.

3.3 Health team members/circle of care may include:

- Acclaim Health team (e.g. registered nurse, registered practical nurse, personal support worker, supervisor or coordinator, manager, customer service representative, volunteer, Adult Day and Caregiver Support staff)
- Health Care team (e.g. physician, pharmacist, therapist, dietician, social worker, etc.)
- Care Coordinator for the Local Health Integration Network (LHIN)
- Other health care or social service agencies as appropriate
- Acclaim Health's Quality and Risk department for the purpose of improving or maintaining the quality of care of the individual or programs and services provided by Acclaim Health

3.4 The client's personal health information that is required to be shared, transferred, or disclosed, should be only the amount of information necessary for that purpose and given to only those individuals necessary.

3.5 The use of email to communicate Personal Health Information outside of the Acclaim Health network in Health Services and Palliative Care Consultation patients is strictly forbidden. The use of text to communicate Personal Health Information with a client/SDM is strictly forbidden.

3.6 If a client or SDM is participating in Adult Day and Caregiver Support, Community Support Services; or is being billed for Private Care and Adult Day and Caregiver Support and wishes to communicate with Acclaim Health via email, consent must be obtained.


3.6.1 The client/SDM will be informed of the risks of using the non-secure email system.

3.6.2 The client/SDM will complete the *Acclaim Health Consent for Use of Electronic Mail for Communicating Client Personal Health Information* form.

3.6.3 The consent form will become part of the client's record.

3.6.4 The client/SDM will receive a test email through Outlook to verify its accuracy. Once verified, the entry in AlayaCare will also be verified.

3.6.5 Any exchange of personal health information by email will be documented in the client's record.

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3.7 Unauthorized collection, use, transfer or disclosure/sharing is considered a privacy breach, as per the *Privacy Complaint or Breach policy*.

3.8 If a third party is requesting that a client's personal information be shared (i.e. Police), the employee will contact a supervisor immediately, prior to disclosure. Verbal consent will be obtained from the client and documented in the client's record if situation is urgent. Where possible written consent will be obtained from the client/substitute decision maker. The LHIN will be notified by the Director/designate of any third party requests for their clients.

3.9 Exceptions for disclosing information without consent include:

- When disclosure is necessary to provide health care and consent cannot be obtained in a timely way.
- Determining or verifying eligibility to receive health care or related goods and services.
- Disclosure to eliminate or reduce a significant risk of serious bodily harm to a person or group of persons.
- Mandatory reporting to Children's Aid Society if there is suspicion that a child is being physically, sexually or emotionally harmed or neglected.
- Reporting a gunshot wound to the police.
- Reporting a Communicable disease to Public Health.
- Disclosure for legal proceedings such as a court order, warrant, summons to testify in court, urgent demand for records. If a legal document is produced, it will become part of the client's record. For more information, refer to the *Request for Client Records* policy.
- Transfer of necessary health information to a custodial institution in which the client is being held.
- Conducting an audit or reviewing documents for accreditation.


3.10 Disclosure for research is allowed with approval from the ethics committee.

3.11 Disclosure is allowed for the purpose of monitoring health payments.

3.12 Client (or substitute decision maker if the client is not capable) consent can be withdrawn, but withdrawal of consent is not retroactive. If a client withdraws consent, the supervisor will explain to the client the implications of this, where applicable.

4.0 *Correction to the Client's Health Record*

4.1 As per PHIPA Section 55, a client/SDM may request that Acclaim Health correct their record, if the client believes the record is inaccurate or incomplete.

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4.2 Acclaim Health is only authorized to correct information that its staff authored and must do so within thirty (30) days of the request. Any request to correct information that was provided by/authored by a third party health service provider or contained in a third party hosted network or shared system, shall be forwarded to that author or the Privacy Officer/designate for that system/organization.

4.3 Corrections will not be made if the perceived inaccuracy reflects the professional opinion of the Acclaim Health author and is made in good faith; or the Acclaim Health author lacks the knowledge, expertise and/or authority to make the correction. Corrections will not be made if there is more than one SDM and they do not agree to the correction.

4.4 The Privacy Officer will be notified when a client requests a correction and will acknowledge the request within 30 days. The Privacy Officer will inform the Director of the department of the request for follow-up with the author of the information in question.

4.5 Where possible, the correction will be made by the author, and if that is not possible, the Director of the department will make the correction.

4.5.1 In paper records, corrections will be made using a strike-through and initial so that the original information is still visible. (example)

4.5.2 In electronic records, where a strike-through is not possible, the correction will be reflected as a late entry.

4.5.3 The original inaccurate information cannot be completely deleted.


4.6 The Privacy Officer will attach a statement of disagreement to the health record if and when it declines to complete revisions and/or requested amendments.

4.7 Any request to correct client demographic information as part of the MH LHIN Community Support Services Coordinated Care Plan project (CCP) where Acclaim Health is not the sole health service provider that contributed to the CCP, Acclaim Health will notify the other parties that a correction was requested and the status of that request.

5.0 *Withdrawing Consent*


5.1 Client (or substitute decision maker if the client is not mentally capable) consent can be withdrawn, but withdrawal of consent is not retroactive.

5.2 If a client withdraws consent, the supervisor will explain to the client the implications of this, where applicable.

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6.0 *Privacy Officer*

- 6.1 Acclaim Health has appointed a Privacy Officer who is responsible for ensuring that the Acclaim Health team members understand and follow the privacy policies and procedures.
- 6.2 The Privacy Officer is responsible for reviewing and responding to questions or concerns from clients or staff.
- 6.3 The Privacy Officer will facilitate the completion of a Privacy Impact Assessment using a designated template with the Leadership Team where applicable when:
 - 6.3.1 New technology/virtual care technology/software/service is being considered that will collect, use or disclose personal health information;
 - 6.3.2 There is a change to the way PHI will be collected, used or disclosed, using existing technology where that is through a new technology, a change to a technology or a process;
 - 6.3.3 A new use has been determined for PHI that has already been collected.
- 6.4 The Privacy Officer will facilitate the completion of regular privacy audits of office practices and client databases.
- 6.5 The Privacy Officer is responsible for submitting data on the number of requests for corrections to records of personal health information affecting LHIN Home and Community Care clients to the LHIN Privacy Office at the beginning of each calendar year.

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References:

Information and Privacy Commissioner of Ontario. www.ipc.on.ca
 Ontario Personal Health Information Protection Act. (2004)
http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_04p03_e.htm
 Use of the Integrated Assessment Record Policy
 Health Care Consent Act. (1996), College of Nurses Standards,
 Client Abuse by Non-Service Provider Policy, Client Abuse by Service Provider Policy,
 Witnessed Abuse of a Third Party Policy, Telecommunications Equipment Policy,
 Email Usage Policy; Retention and Destruction of Client Records Policy,
 Request to Obtain Client Record Policy, Data Security Policy, Privacy Complaint or Breach
 Policy, Documentation of High Profile Clients SOP
 Immunization and Surveillance Policy, Privacy Impact Assessment Template
 MH LHIN CCP in HPG: Access and Correction policy
 Acclaim Health Archive Storage Request Form
 Acclaim Health Client Incident Reporting and Investigation Policy
 Acclaim Health Consent to Collect, Use, Disclose and Store Client Personal Health Information
 Acclaim Health Consent for Use of Electronic Mail for Communicating Client Personal Health
 Information
 Acclaim Health Client Privacy Statement 'Your Privacy Matters'
 Acclaim Health Privacy Consent for Assessment Data Sharing
 Acclaim Health Privacy Statement for Assessment Data Sharing
 Acclaim Health Substitute Decision-Maker Information Sheet
 Acclaim Health Authorization of Release of Personal Health Information form
 Acclaim Health Consent for Virtual Care Visit

Approved by	Signature	Date
Chief Executive Officer		May 12, 2020