	<b>POLICY</b>  Number: 7311-75-002 Title: Access to Personal Health Information
Authorization  <input type="checkbox"/> President and CEO <input checked="" type="checkbox"/> Vice President, Finance and Corporate Services	Source: Director, Enterprise Risk Management Cross Index: Date Approved: April 2, 2000 Date Revised: January 24, 2014 Date Effective: February 10, 2014 Date Reaffirmed: Scope: SHR and Affiliates

Any PRINTED version of this document is only accurate up to the date of printing. Saskatoon Health Region (SHR) cannot guarantee the currency or accuracy of any printed policy. Always refer to the Policies and Procedures website for the most current versions of documents in effect. SHR accepts no responsibility for use of this material by any person or organization not associated with SHR. No part of this document may be reproduced in any form for publication without permission of SHR.

## DEFINITIONS

**Access** means the right of an individual or substitute decision maker to view and/or receive copies of the Individual's personal health information maintained by Saskatoon Health Region (SHR) and Affiliates.

**All Staff** means SHR employees, practitioner staff, professional staff, affiliate employees,

**Current Record** means a record that contains personal health information recorded during a current hospital stay or recent care received in a long term care facility, the community or out-patient setting and readily available during an admission/visit.

**Individual** means the person to whom the personal health information relates. For purposes of access, individual includes a substitute decision maker.

**In-patient Chart** means personal health information documented on an SHR health record during the current hospital stay of an individual who has been admitted and not yet discharged from an SHR hospital.

**Health Care Team** means a member of a team providing services to an Individual who is a professional health care provider such as, but not limited to, a physician, psychologist, nurse, social worker, therapist or speech pathologist.

**Personal health information** means, with respect to an individual, whether living or deceased<sup>1</sup>:

- (i) Information with respect to the physical and mental health of the individual;
- (ii) Information with respect to any health service provided to the individual;
- (iii) Information with respect to any body part or bodily substance donated by the individual;
- (iv) Information with respect to any body part or bodily substance of the individual;
- (v) Information collected in the course of providing health services to the individual;
- (vi) Information collected incidentally to the provision of health services to the individual;
- (vii) Registration information (e.g. demographic information)

---

<sup>1</sup> HIPA 2(m)

**Substitute Decision Maker** means a person who, pursuant to *The Health Care Directives and Substitute Decision Makers Act*, is entitled to make health care decisions on behalf of the subject individual.

**1. PURPOSE**

The purpose of this policy is to outline responsibilities related to Individuals' request for access to their personal health information, in compliance with *The Health Information Protection Act* (HIPA) and best practice.

**2. PRINCIPLES**

**2.1** Individuals have a right to request access their personal health information in accordance with HIPA.

**2.2** SHR and Affiliates have an obligation to protect the integrity of the personal health information in their custody or control.

**2.3** Expedient access to the personal health record fosters open communication between parties.

**3. POLICY**

**3.1** Upon request, all staff are required to take reasonable steps to inform Individuals of the process to access his/her right to personal health information (see procedure).

**3.2** SHR charges fees for access to personal health information. Individuals must be advised of charges at the time of access request. SHR charges the following:

**3.2.1** A \$20.00 processing fee for access.

**3.2.2** A \$20.00 fee to have a staff member present at the time of access.

**3.2.2.1** The authority to waive this charge rests with the Manager of the unit/Administrator of the facility.

**3.2.3** \$0.25/page for copies (except first request).

**3.2.4** All fee waiver requests (except the \$20.00 fee to have a staff member present) must be approved by the Client Representative Office or SHR Privacy and Access.

**3.3** Staff responding to requests for access to in-patient or Long Term Care charts must make the information available with 48 hours of the request or prior to discharge of the patient, whichever occurs first.

**3.4** Staff responding to requests for access to information by Individuals who are presently residents in an SHR long-term care facility must make the requested information available within 48 hours of the request.

**3.5** Requests for personal health information contained in non-current records must be responded to within 30 days of the request.

**3.6** Individuals can authorize another individual to access their personal health record on their behalf either verbally or in writing. The health care professional will document such in the client's chart (see Appendix A.)

**3.7** In the case of an incompetent or incapacitated client, the substitute decision maker may request access to the personal health information of the Individual.

- 3.8 A staff member must be present at the time of viewing original documentation containing personal health information to protect the integrity of the record.
- 3.9 Refusals to provide individuals with access to their personal health information must be in accordance with HIPA as per Procedure 2.5.

#### **4. ROLES AND RESPONSIBILITIES**

##### **4.1 All Staff**

- 4.1.1 Ensure Individuals are aware of the process in place to request access to their personal health information and make reasonable attempts to assist individuals in their request.
- 4.1.2 Respond to requests for access to personal health information within stipulated timelines.
- 4.1.3 Report all breaches of this policy to the Privacy Officer.

##### **4.2 Managers/Supervisors**

- 4.2.1 Ensure staff is aware of this policy.
- 4.2.2 Provide guidance to staff when there are questions related to access to personal health information.
- 4.2.3 Report all breaches of this policy to the Privacy Officer.

##### **4.3 SHR Privacy and Access**

- 4.3.1 Provide advice on all matters relating to access to personal health information.
- 4.3.2 Provide individuals with contact information to the Office of the Saskatchewan Information and Privacy Commissioner at completion of internal appeal process.
- 4.3.3 Respond, review, and make recommendations relating to incidents of non-compliance of this policy.

#### **5. POLICY MANAGEMENT**

The management of this policy including policy education, monitoring, implementation and amendment is the responsibility of the Director, Enterprise Risk Management.

#### **6. NON-COMPLIANCE/BREACH**

Non-compliance will result in a review of the incident. If the incident is substantiated, the incident will be considered a breach and may result in disciplinary action, up to and including termination of employment or privileges with SHR.

#### **7. REFERENCES**

*The Health Information Protection Act, Saskatchewan*  
*The Health Care Directives and Substitute Decision Makers Act, Saskatchewan*

<b>PROCEDURE</b>	
Number: 7311-75-002 Title: Access to Personal Health Information	
Authorization  <input type="checkbox"/> President and CEO <input checked="" type="checkbox"/> Vice President, Finance and Corporate Services	Source: Director, Enterprise Risk Management Cross Index: Date Approved: April 2, 2000 Date Revised: January 24, 2014 Date Effective: February 10, 2014 Date Reaffirmed: Scope: SHR and Affiliates

**1. PURPOSE**

The purpose of this procedure is to establish the processes for access to personal health information requests.

**2. PROCEDURE**

**2.1 All Access to Personal Health Information Requests:**

- 2.1.1** Will be responded to within 30 days except in cases of In-patients, and Long Term Care residents where the response time will be 48 hours or prior to discharge, whichever is sooner.
- 2.1.2** All Individuals will be advised of the procedure of how to request access to personal health information, upon request.
- 2.1.3** All Individuals' identities must be verified (e.g. known Individual, picture identification) prior to allowing access to personal health information.
- 2.1.4** In cases where the Substitute Decision Maker makes the request, ensure he/she provides sufficient proof that he/she can act in this capacity. (See Appendix A)
- 2.1.5** Denials or partial denial of request will be handled in accordance with Section 2.5.
- 2.1.6** Requests for explanations about any term, code or abbreviation used in the Personal Health Information should be provided as soon as possible, but no later than 30 days.
  - 2.1.6.1** Requests for explanations when Individual is an in-patient or Long Term Care resident must be provided as soon as practicable but no later than 48 hours or prior to discharge, whichever is sooner.
- 2.1.7** All requests to view personal health information, that comply with this policy, will be allowed. An SHR or Affiliate employee must be present at all time to ensure the integrity of the document is maintained.
- 2.1.8** Written requests for access to information will be stored in the Individual's health record.
- 2.1.9** All records will be reviewed for exclusions pursuant to 2.5.1 prior to permitting Individual access to information.

## **2.2 In-patient or LTC Resident - Request for Access to Current Record**

- 2.2.1** Requests for access to the current health record from an Individual who is an in-patient or Long Term Care resident can be made verbally or in writing to a member of his/her health care team.
- 2.2.2** Requests by a person(s), other than the substitute decision maker, to access the personal health record of an Individual will only be provided with the written consent (Appendix B) or documented verbal consent of the Individual.
- 2.2.3** All verbal requests/consent for access to personal health information must be noted on the health record.
- 2.2.4** The member of the health care team designated to respond to the request shall:
  - 2.2.4.1** Determine what information the Individual wishes to examine.
  - 2.2.4.2** Written requests are to be stored in the chart.
  - 2.2.4.3** Advise the Individual that they can request to have a physician present to interpret the medical information. Forward requests to MRP (most responsible physician).
  - 2.2.4.4** Advise the Individual when and how the health record will be made available.
  - 2.2.4.5** Review record for exclusions as noted in 2.5.
  - 2.2.4.6** If verbal request, document the details of the request for access (who, what, when) and the details of whether the request was granted/denied.

## **2.3 Non-current Records - Requests for Access**

- 2.3.1** Requests for access to personal health records contained in a non-current hospital or Long Term Care resident's chart will be directed to the appropriate health records department or Long Term Care Administrator or designate.
- 2.3.2** Requests for access to personal health information by an Individual must be made in writing<sup>2</sup>. (See Appendix B)
- 2.3.3** Requests by a person(s), other than the substitute decision maker, to access the personal health record of an Individual will only be provided with the written consent<sup>3</sup> of the Individual.
- 2.3.4** Records will be reviewed for exclusions as listed in 2.5.1. If unsure if exclusion 2.5.1.1 exists, relevant health care provider will be consulted.
- 2.3.5** Personal Health Information will be provided and/or reasons for denial provided within 30 days of request.
  - 2.3.5.1** Denials will be handled in accordance with 2.5.

## **2.4 Community Based Programs – Requests to Access**

- 2.4.1** Requests can be made verbally or in writing (see Appendix B) to a member of his/her health care team.

---

<sup>2</sup> [http://www.saskatoonhealthregion.ca/about\\_us/documents/AccessRequestforPHINov09.pdf](http://www.saskatoonhealthregion.ca/about_us/documents/AccessRequestforPHINov09.pdf)

<sup>3</sup> [http://www.saskatoonhealthregion.ca/about\\_us/documents/ConsentforDisclosureofPHINov09.pdf](http://www.saskatoonhealthregion.ca/about_us/documents/ConsentforDisclosureofPHINov09.pdf)

- 2.4.2** Requests by a person(s), other than the substitute decision maker, to access the personal health record of an Individual will only be provided with the written consent<sup>4</sup> or documented verbal consent of the Individual.
- 2.4.3** Records will be reviewed for exclusions as listed in 2.5.1. If unsure if exclusion 2.5.1.1 exists, relevant health care provider will be consulted.
- 2.4.4** Document the date/time the Individual made the request for access, if verbal, and document the date/time the request was granted/denied.
- 2.4.5** Personal Health Information will be provided and/or reasons for denial provided within 30 days of request.
  - 2.4.5.1** Denials will be handled in accordance with 2.5.
- 2.4.6** If current record is requested during a visit, access may be granted to the Individual at the time of request.
- 2.4.7** Information that is not readily available or made available at time of request may be provided to the Individual by:
  - 2.4.7.1** Bringing the requested information to next visit for access.
  - 2.4.7.2** Directing the Individual to the appropriate department for handling of access to personal health information requests.

## **2.5 Denials of Access to Personal Health Information**

- 2.5.1** In accordance with HIPA, Individuals have the right to access their personal health record and only when the following exist will access be denied<sup>5</sup>:
  - 2.5.1.1** Access to such information could reasonably be expected to endanger the mental or physical health or safety of the client or other person.
  - 2.5.1.2** Disclosure of the information would reveal personal health information about another person who has not expressly consented to the disclosure.<sup>6</sup>
  - 2.5.1.3** Disclosure of the information could reasonably be expected to identify a third party who supplied the information in confidence under circumstances in which confidentiality was reasonably expected.<sup>7</sup>
  - 2.5.1.4** The information was collected and is used solely for:
    - The purpose of peer review by health professionals.<sup>8</sup>
    - The review by a standards or quality of care committee established to study or evaluate health services practices.<sup>9</sup>
    - For the purposes of a body with statutory responsibility for the discipline of health professional or the quality or standards of professional services provided by health professionals.<sup>10</sup>

---

<sup>4</sup> [http://www.saskatoonhealthregion.ca/about\\_us/documents/ConsentforDisclosureofPHINov09.pdf](http://www.saskatoonhealthregion.ca/about_us/documents/ConsentforDisclosureofPHINov09.pdf)

<sup>5</sup> HIPA Section 38(1)

<sup>6</sup> HIPA 38(1) (b)

<sup>7</sup> HIPA 38(1)(c)

<sup>8</sup> HIPA 38(1)(d)(i)

<sup>9</sup> HIPA 38(1)(d)(ii)

<sup>10</sup> HIPA 38(1)(d)(iii)

- 2.5.2** The Individual must be informed of the reason for refusal by noting one of the applicable HIPA exemption(s) identified in 2.5.1.
- 2.5.3** Only the information relevant to 2.5.1 may be omitted. In cases of partial refusal, remove (sever) the identified portion of the record and note the applicable HIPA exemption(s) identified in 2.5.1. The remainder of the information must be provided to the Individual for examination.
- 2.5.4** The Individual must be informed of their right to appeal this decision to the SHR, Privacy and Access.

**2.6 Fees**

- 2.6.1** Advise individual of potential charges at time of access request.
  - 2.6.1.1** Individuals requesting fee waiver are to be directed to the SHR Client Representative or SHR Privacy and Access.
- 2.6.2** Advise Health Records/Affiliate Administration office of total charge.
- 2.6.3** Health Records/Affiliate's Administration office generates invoice (forwards to unit if applicable).
- 2.6.4** Individual attends unit/Affiliate Administration office for payment of fees.

**3. PROCEDURE MANAGEMENT**

The management of this policy including policy education, monitoring, implementation and amendment is the responsibility of the Director, Enterprise Risk Management.

**4. NON-COMPLIANCE/BREACH**

Non-compliance will result in a review of the incident. If the incident is substantiated, the incident will be considered a breach and may result in disciplinary action, up to and including termination of employment or privileges.

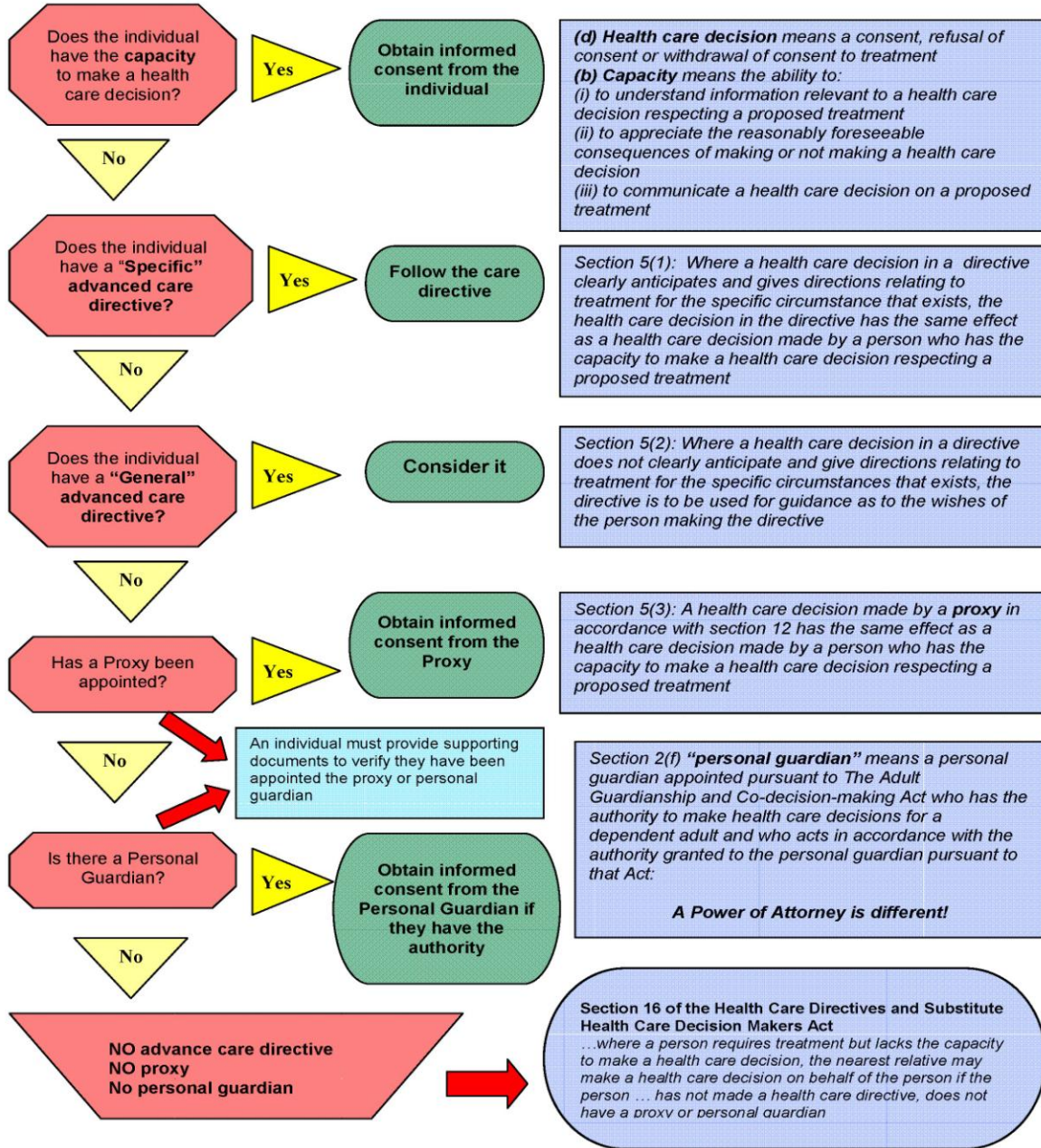
**5. REFERENCES**

*The Health Care Directives and Substitute Health Care Decision Makers Act - A Decision Tree*

*The Health Information Protection Act, Chapter H-0.021*

*The Health Care Directives and Substitute Decision Makers Act, Chapter H0.001*

**Appendix A - The Health Care Directives and Substitute Health Care Decision Makers Act - A Decision Tree**



**(d) Health care decision** means a consent, refusal of consent or withdrawal of consent to treatment  
**(b) Capacity** means the ability to:  
 (i) to understand information relevant to a health care decision respecting a proposed treatment  
 (ii) to appreciate the reasonably foreseeable consequences of making or not making a health care decision  
 (iii) to communicate a health care decision on a proposed treatment

**Section 5(1):** Where a health care decision in a directive clearly anticipates and gives directions relating to treatment for the specific circumstance that exists, the health care decision in the directive has the same effect as a health care decision made by a person who has the capacity to make a health care decision respecting a proposed treatment

**Section 5(2):** Where a health care decision in a directive does not clearly anticipate and give directions relating to treatment for the specific circumstances that exists, the directive is to be used for guidance as to the wishes of the person making the directive

**Section 5(3):** A health care decision made by a **proxy** in accordance with section 12 has the same effect as a health care decision made by a person who has the capacity to make a health care decision respecting a proposed treatment

**Section 2(f) "personal guardian"** means a personal guardian appointed pursuant to The Adult Guardianship and Co-decision-making Act who has the authority to make health care decisions for a dependent adult and who acts in accordance with the authority granted to the personal guardian pursuant to that Act:  
  
**A Power of Attorney is different!**

**Section 16 of the Health Care Directives and Substitute Health Care Decision Makers Act**  
 ... where a person requires treatment but lacks the capacity to make a health care decision, the nearest relative may make a health care decision on behalf of the person if the person ... has not made a health care directive, does not have a proxy or personal guardian

- Nearest relative (Section 15) in order of sequence:
- (a) Spouse or person with whom the person requiring treatment cohabits and has cohabited as a spouse in a relationship of some permanence
  - (b) Adult son or daughter (beginning with the eldest)
  - (c) Parent or legal custodian
  - (d) Adult brother sister
  - (e) Grandparent
  - (f) Adult grandchildren
  - (g) Adult uncle or aunt
  - (h) Adult nephew or niece
- The relationships listed include adoptive relationships
- Section 16(4):** Where there is no nearest relative of where a reasonable attempt to find the nearest relative has been made but the nearest relative cannot be found, and a person requiring treatment lacks the capacity to make a health care decision, a treatment provider may provide treatment in a manner and to the extent that is reasonably necessary and in the best interest of the person without receiving a health care decision from the nearest relative if:
- (a) the treatment provider believes that the proposed treatment is needed; and
  - (b) another treatment provider agrees in writing that the proposed treatment is needed





### Saskatoon Health Region Request for Access to Personal Health Information- Current Record

**A.** I, (Name of applicant) \_\_\_\_\_ request that Saskatoon Health Region provide access to personal health information (health record) from the following site(s):

Royal University Hospital       Saskatoon City Hospital       St. Paul's Hospital

Other: \_\_\_\_\_

Patient Name: (Please print) \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ Postal Code: \_\_\_\_\_ Telephone # \_\_\_\_\_

Date of birth (dd/mm/yyyy) \_\_\_\_\_ Health Services Number: \_\_\_\_\_

**B.** Person requesting access **if different from above** (must have legal authority to make request on behalf of patient):

Name: (Please print) \_\_\_\_\_

Relationship to Patient / Legal Authority\* (e.g. guardian, proxy) \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ Postal Code: \_\_\_\_\_ Telephone # \_\_\_\_\_

\* attach proof that you can legally act on behalf of the patient listed above

In certain circumstances, a **Consent for Disclosure of Personal Health Information** form completed by the patient will be required.

**C.** To assist in the processing of this request, please provide the following additional information:

Specific information requested (including dates): \_\_\_\_\_

\_\_\_\_\_

**D.** How do you wish to access this information? Please select one:

Examine originals

Receive copies of originals

I want a family member or other individual(s) to view my information

Name of individual(s): \_\_\_\_\_

You or your designate will be provided access to your personal health information or reasons as to why access is denied within 48 hours.

Signature of applicant: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Releaser \_\_\_\_\_ Date: \_\_\_\_\_

**Submit requests to a member of your health care team.**