

 <b>Saskatchewan Health Authority</b>	<b>Policy Directive</b> Number: SHA-07-003 Title: Privacy and Confidentiality
Authorization  Chief Executive Officer	Source: Transition Team Cross Index: Date Approved: December 4, 2017 Date Revised: Date Effective: December 4, 2017 Date Reaffirmed: Scope: Saskatchewan Health Authority

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**Saskatchewan Health Authority policy directives supersede all related regional health authority policies, practitioner staff rules and regulations, procedures, protocols, guidelines, standard work and/or work standards.**

## DEFINITIONS

**Confidential Information** means information that has been disclosed in a relationship of trust and with the expectation that it will not be divulged to others in ways that are inconsistent with the understanding of the original disclosure without permission. Confidential information includes all information, documents, data and software (including passwords), personal information and personal health information.

**Freedom of Information and Protection of Privacy Act (FOIP)** means the Act respecting a right of access to documents of public bodies and a right of privacy with respect to personal information held by public bodies (Alberta).

**Health Information Act (HIA)** means the Act respecting the collection, use and disclosure of personal health information, access to personal health information and the privacy of individuals with respect to personal health information (Alberta).

**Personal Health Information (PHI)** means, with respect to an identifiable individual, whether living or deceased<sup>1</sup>:

- Information with respect to the physical and mental health of the individual;
- Information with respect to any health service provided to the individual;

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

- Information with respect to the donation by the individual of any body part or any bodily substance of the individual or information derived from the testing or examination of a body part or bodily substance of the individual;
- Information collected:
  - In the course of providing health services to the individual; or
  - Incidentally to the provision of health services to the individual;
- Registration information (e.g. demographic information);

**Personal Information (PI)** means personal information about an identifiable individual that is recorded in any form and includes<sup>2</sup> :

- Information that relates to the race, creed, religion, colour, sex, sexual orientation, family status or marital status, disability, age, nationality, ancestry or place of origin of the individual;
- Information that relates to the education or the criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;
- Any identifying number, symbol or other particular assigned to the individual;
- The home or business address, home or business telephone number, fingerprints or blood type of the individual;
- The personal opinions or views of the individual except where they are about another individual;
- Correspondence sent to a local authority by the individual that is implicitly or explicitly of a private or confidential nature, and replies to the correspondence that would reveal the content of the original correspondence, except where the correspondence contains the views or opinions of the individual with respect to another individual;
- The views or opinions of another individual with respect to the individual;
- Information that was obtained on a tax return or gathered for the purpose of collecting tax;
- Information that describes an individual's finances, assets, liabilities, net worth, bank balance, financial history or activities or credit worthiness; or
- The name of the individual where:
  - It appears with other personal information that relates to the individual; or
  - The disclosure of the name itself would reveal personal information about the individual.

**Staff** means employees, practitioner staff, contractors/contract individuals, vendors, learners and volunteers. This policy directive also applies to Board members.

**The Health Information Protection Act (HIPA)** means the Act respecting the collection, use, and disclosure of personal health information, access to personal health information and the privacy of individuals with respect to personal health information (Saskatchewan).

**The Local Authority Freedom of Information and Protection of Privacy Act (LAFOIP)** means the Act respecting a right of access to documents of local authorities and a right of privacy with respect to personal information held by local authorities (Saskatchewan).

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<sup>2</sup> LAFOIP s. 23-1

## **1. PURPOSE**

The purpose of this policy directive is to outline responsibilities to ensure confidential information is secure during collection, use, disclosure, storage and destruction in accordance with the provisions of HIPA, LAFOIP, other applicable privacy legislation including Federal or other jurisdictional legislation as appropriate, and Saskatchewan Health Authority policies.

## **2. PRINCIPLES**

Respecting the rights of the individual, Saskatchewan Health Authority shall ensure that all confidential information in the custody or control of the Saskatchewan Health Authority is guided by the following privacy principles.

### **2.1 Accountability**

Saskatchewan Health Authority is responsible for confidential information in its custody and control and shall have a designated individual or individuals who are accountable for Saskatchewan Health Authority's compliance with the guiding principles.

Saskatchewan Health Authority will:

- be collaborative to ensure appropriate agreements are in place to facilitate the sharing of data, as required by legislation;
- ensure that policies and procedures are in place to support information management responsibilities, as required by legislation;
- conduct privacy impact assessments, with a focus on proactive disclosure of the same;
- ensure that a privacy and breach management strategy is in place to ensure all access, views, collection, use, disclosure, copying, modification, retention or disposal measures are in accordance with legislative requirements; and
- ensure that comprehensive privacy training and awareness program is in place. All staff will be required to affirm that they understand and commit to meeting their privacy obligations under this policy.

### **2.2 Identifying Purposes**

Saskatchewan Health Authority shall identify the purpose for which PHI and PI is collected, at or before the time the information is collected.

### **2.3 Consent**

Saskatchewan Health Authority will obtain an individual's consent before the collection, use or disclosure of PHI or PI. Such consent may be express, implied, or deemed where permitted by law. There are limited circumstances where Saskatchewan Health Authority may collect, use or disclose PHI or PI without the consent of the individual. Where possible and practical, Saskatchewan Health Authority will accommodate patient/client/resident requests to restrict access to their PHI and PI.

## **2.4 Limiting Collection**

Saskatchewan Health Authority will collect only the PHI and PI that is necessary for the purposes identified by Saskatchewan Health Authority. PI and PHI shall be collected by fair means, and in compliance with applicable legislative requirements.

## **2.5 Limiting Use, Disclosure and Retention**

PHI and PI will not be used or disclosed for purposes other than for the purpose it was collected by Saskatchewan Health Authority, except with the consent of the individual or as permitted by law. Access to and viewing of confidential information will be limited to a need-to-know basis for staff based upon the requirements of their job duties. Confidential information will be retained only as long as necessary to meet the original purpose or as permitted by Saskatchewan Health Authority policy, regulations or as otherwise required by law. Confidential information will be destroyed or obliterated in a manner that protects the information after its retention period has been met.

## **2.6 Accuracy**

Saskatchewan Health Authority will take reasonable steps to ensure that information is accurate, complete, and up to date. An individual who believes there is a factual error or omission in his/her PHI or PI may make a request to Saskatchewan Health Authority to correct the information. Where the information is in systems not under the authority of Saskatchewan Health Authority, Saskatchewan Health Authority will refer the individual to the proper trustee. Professional opinions and observations are not eligible for amendment.

## **2.7 Safeguards**

Saskatchewan Health Authority will adopt technical, physical and administrative safeguards to protect confidential information that are appropriate to the sensitivity of such information. Saskatchewan Health Authority will monitor and audit the electronic usage of its systems whenever possible. At any time an individual may request an audit be performed and be given the results of the audit including the names of the users who used the medical record. Information shared for secondary purposes should be de-identified whenever possible. Visual and acoustical privacy should be maintained within Saskatchewan Health Authority work environments whenever possible.

## **2.8 Openness**

Saskatchewan Health Authority will be open about its policy and practices with respect to the management of confidential information through the use of brochures and posted signs as well as information provided on the Saskatchewan Health Authority public website. Privacy Officers are available during normal business hours to address concerns and answer questions from staff and the public regarding the policies, processes and Work Standards around confidential information. In the event of a privacy breach, affected individuals will be informed expeditiously if it is deemed to be in their best interest.

## **2.9 Individual Access**

Upon request, an individual shall be informed of the existence, use and disclosure of his/her PHI and/or PI and shall be given access to that information, unless there is a legal reason to withhold the information. An individual shall be able to challenge the accuracy and completeness of factual information and have it amended as appropriate. Professional opinions and observations are not eligible for amendment.

## **2.10 Challenging Compliance/Privacy Queries**

An individual shall be able to address concerns related to compliance with any of the above principles. Saskatchewan Health Authority will have procedures in place to receive and respond to challenges and inquiries regarding its privacy policies and practices for the handling of PHI and PI.

# **3. POLICY DIRECTIVE**

**3.1** All staff who work for and/or provide services on behalf of the Saskatchewan Health Authority are responsible for protecting the privacy and confidentiality of confidential information that is collected, used or accessed through their association with Saskatchewan Health Authority in accordance with the principles.

**3.2** All staff who work for and/or provide services in Saskatchewan Health Authority facilities located on the Alberta side of the City of Lloydminster are responsible for protecting the privacy and confidentiality of confidential information in accordance with the equivalent Alberta legislation; HIA and FOIP.

# **4. ROLES AND RESPONSIBILITIES**

## **4.1 Staff**

4.1.1 Be familiar with and abide by this policy directive.

4.1.2 Attend privacy training as directed.

4.1.3 Sign the Saskatchewan Health Authority Confidentiality Agreement (see Appendix A) upon commencement of employment/relationship with Saskatchewan Health Authority.

4.1.4 In a timely manner, report all breaches of this policy directive to management or the Privacy Office (or designate).

4.1.5 Provide adequate safeguards to all confidential information.

4.1.6 Maintain the confidentiality of all confidential information, whether the information is used or viewed through normal duties or inadvertently during the course of duties.

## **4.2 Privacy Office (or designate)**

4.2.1 Provide advice and training to staff on matters relating to privacy and confidentiality.

4.2.2 Respond, review, and make recommendations relating to incidents of non-compliance with this policy directive.

- 4.2.3 Review, manage and respond to Access to Information requests.
- 4.2.4 Coordinate the auditing of clinical applications for compliance with this policy directive.

## **5. POLICY DIRECTIVE MANAGEMENT**

The management of this policy directive including education, implementation, monitoring, and amendment is the responsibility of the Privacy Office/Officers or designate. Amendment is the responsibility of the Vice President, Infrastructure, Information and Support.

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

Non-compliance with this policy directive may result in disciplinary action up to and including termination of employment, privileges and/ or contract relationship.

A privacy breach may be reported to Saskatchewan's Information and Privacy Commissioner.

A privacy breach may be reported to the appropriate professional regulatory body, where applicable.

Non-compliance with this policy directive or related procedure may constitute an offence and result in related penalties under applicable legislation, *The Health Information Protection Act* for example.

## **7. REFERENCES**

*Freedom of Information and Protection of Privacy Act (FOIP)*, Alberta

*Health Information Act (HIA)*, Alberta

Schedule 1 Principles Set Out in the National Standard of Canada Entitled Model Code for the Protection of Personal Information (CAN/CSA-Q830-96)

*The Health Information Protection Act (HIPA)*, Saskatchewan

*The Local Authority Freedom of Information and Protection of Privacy Act (LAFOIP)*, Saskatchewan

*The Provincial Health Authority Act (PHA)*, Saskatchewan

## **8. SUPPORTING DOCUMENTS**

Appendix A Confidentiality Agreement

- 9. This policy directive replaces or partially replaces a number of former regional health authority Privacy and Confidentiality and Information Technology policies. A full assessment will take place post approval.

## Saskatchewan Health Authority Confidentiality Agreement

As an individual providing services (whether as an employee, practitioner staff, volunteer, student or otherwise) to the Saskatchewan Health Authority, I understand that I may have access to confidential information in many formats including, without limitation, electronic, printed or spoken communication.

**Confidential Information** may include, but is not limited to, information relating to:

- Patients, clients and residents (such as health records, diagnoses, conversations, registration information, patient financial information, etc.)
- Saskatchewan Health Authority staff (such as employment records, disciplinary actions, etc.)
- Saskatchewan Health Authority business information (such as financial and statistical records, strategic plans, internal reports, memos, contracts, peer review information, communications, etc.)
- Information about Saskatchewan Health Authority's business partners and service providers.

Confidential Information is protected by *The Health Information Protection Act* (HIPA) Saskatchewan, *The Local Authority Freedom of Information and Protection of Privacy Act* (LAFOIP) Saskatchewan, *The Health Information Act* (HIA) Alberta, *The Freedom of Information and Protection of Privacy Act* (FOIP) Alberta, and other applicable privacy legislation including Federal or other jurisdictional legislation as appropriate, as well as by Saskatchewan Health Authority policies.

1. I acknowledge and agree that my right to access, use and disclose confidential information is subject to the following conditions:
  - a) I will only view, use or disclose confidential information which I have a legitimate need-to-know;
  - b) I will keep all Confidential Information in the strictest of confidence;
  - c) I will only view and use such information for the purpose(s) for which I am granted user rights, and will only disclose that information as permitted by HIPA, LAFOIP, other applicable privacy law, and/or Saskatchewan Health Authority policy;
  - d) I will not access my own personal information or personal health information, unless I make an approved request as per Saskatchewan Health Authority policy;
  - e) I will not look up any information on my spouse, family members, friends, acquaintances, co-workers etc. without a professional need-to-know. I will not look up birth dates, phone numbers and addresses for personal use;
  - f) I understand that looking up patient, client and/or resident's personal health information out of curiosity / general interest is prohibited;
  - g) I will not in any way divulge, copy, release, alter, revise, or destroy any Confidential Information except as authorized within the scope of my duties with Saskatchewan Health Authority and as permitted by law and Saskatchewan Health Authority policy; and
  - h) I understand that it is my responsibility to ensure Confidential Information in my possession is maintained in a physically secure environment.
2. I will safeguard and will not disclose or share with any other person my access code(s) (password), user IDs, access cards, keys or any other authorization code or device that allows

me access to Confidential Information. I accept responsibility for all activities undertaken using my codes and devices:

- a) I will lock computer screens when unattended and log off computer systems after use;
  - b) I will not log on to a system or access Confidential Information to allow another person to view that information or to use that system, unless authorized by legislation or internal policies;
  - c) I will report any suspicion or knowledge that my access code, user ID, access card, key or other authorization code or device, or any Confidential Information has been lost, misused or disclosed without Saskatchewan Health Authority authorization;
  - d) If I download or transfer computer files containing Confidential Information to any non-Saskatchewan Health Authority authorized computer, data storage device, portable device, mobile device, or other device capable of storing digitized data it shall be done in compliance with HIPA, LAFOIP, any other privacy legislation and Saskatchewan Health Authority policies with respect to the treatment of the Confidential Information;
  - e) I will only print documents containing Confidential Information in a physically secure environment, will not allow other people access to printed Confidential Information, and will store all printed Confidential Information in a physically secure environment;
  - f) If I no longer need Confidential Information, I will securely dispose of or destroy the Confidential Information as per Saskatchewan Health Authority policy; and
  - g) I agree to abide by all relevant Acceptable Use Policies.
3. I acknowledge my obligation to report to my manager or the Saskatchewan Health Authority Privacy Office or designate any practice by another person that violates these obligations or puts the Saskatchewan Health Authority, its personnel, or its patients, clients and residents at risk of improper access, use or disclosure of Confidential Information.
  4. I understand that I may be given access to electronic health care systems or repositories by Saskatchewan Health Authority strictly for authorized work purposes. Additional privacy training, as part of this access, may be required as part of my access permissions. All accesses to these systems under the Saskatchewan Health Authority's authority, that is not directly related to an authorized role-based work requirement or task, is strictly prohibited and a contravention of Saskatchewan Health Authority policy.
  5. I understand that I must complete all mandatory privacy training and confidentiality requirements as determined by Saskatchewan Health Authority on an ongoing basis. This may include, but not be limited to, annually revisiting the confidentiality agreement and privacy refresher training.
  6. I understand that my use of Confidential Information is subject to monitoring and periodic auditing by the Saskatchewan Health Authority.
  7. I agree that I have no right or ownership interest in any Confidential Information referred to in this Agreement.
  8. I agree to review and comply with all applicable legislation and Saskatchewan Health Authority policies respecting privacy, confidentiality and security of which I am specifically advised and provided a copy of or given access to by Saskatchewan Health Authority.



9. I understand that my name may be released by the Saskatchewan Health Authority as part of full disclosure in a proven case of breach of confidentiality.
10. I understand that a failure to comply with this Agreement may result in action being taken against me which may include but is not limited to the following:
- a) Disciplinary action by the Saskatchewan Health Authority which may result in the suspension or revocation of my appointment and privileges, or the termination of my employment;
  - b) A legal action being brought against me by Saskatchewan Health Authority or the patient, client or resident affected by the breach of Confidential Information;
  - c) A complaint or report about me being made to my professional licensing body by the Saskatchewan Health Authority;
  - d) A complaint being made to the Privacy Commissioner by the Saskatchewan Health Authority; and/or
  - e) A complaint to the Ministry of Justice by the Saskatchewan Health Authority.
11. I understand that my obligations under this Agreement will survive beyond the term of my service and/or relationship with the Saskatchewan Health Authority.

**Name** \_\_\_\_\_

**Date** \_\_\_\_\_

**Signature** \_\_\_\_\_

**Department** \_\_\_\_\_

**Witness** \_\_\_\_\_

**Date** \_\_\_\_\_