

PRIVACY AND CONFIDENTIALITY	Administration ADM-030
Issuing Authority (sign & date)	Vickie Kaminski, President and Chief Operating Officer (CEO), Eastern Health Signed by Vickie Kaminski Dated September 24, 2013
Office of Administrative Responsibility	Human Resources
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Level	One (I)
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Overview

Eastern Health is committed to protecting the privacy and confidentiality of personal information and personal health information in its custody and control.

The *Access to Information and Protection of Privacy Act* (ATIPPA) sets out the rules for the collection, use and disclosure of personal information. The Newfoundland and Labrador *Personal Health Information Act* (PHIA) sets out the rules for the collection, use and disclosure of personal health information. Eastern Health is both legally and ethically responsible for the information generated within its service delivery and as such Eastern Health develops policies and procedures on how that information is collected, used, accessed, maintained, disclosed and destroyed in order to maintain the quality and consistency of service delivery.

POLICY

It is the responsibility and obligation of all employees, agents and/or those affiliated either directly or indirectly with Eastern Health to ensure that information to which they have access is kept private and confidential.

All information obtained in the course of an affiliation with Eastern Health must be held in the strictest confidence. All reasonable measures must be taken to ensure that all information is collected, used and disclosed only in circumstances necessary

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and authorized for client care, research, and education or as necessary in the conduct of business of the organization.

Collection, use, sharing, disclosure, maintenance or disposal of information must be in accordance with the appropriate legislative authority, professional standards, codes of ethics and Eastern Health policy.

Information that is to be kept confidential and private is information that would not otherwise be publicly available and includes but is not limited to matters such as:

Type of Confidential Information:	
Client/Patient/Resident	Any client/patient/resident Personal Health Information or Personal Information.
Financial	Any information that would outline a person's individual salary or any unpublished financial information of the organization (e.g. debtors, payroll).
Human Resources	Any and all personal and employment information that is gathered as a result of established relationships/affiliations with Eastern Health.
Legal	Any information outlined in a legal document (e.g. contracts, agreements, memorandums disputes, emails) for which privilege is claimed.
Other Administrative Information	Any information used for administrative purposes (e.g. clinic schedules, patient census, employee lists, patient lists or donor lists).
Business Initiatives	Any information related to the Organization's initiatives (e.g. organizational restructuring, mergers, outsourcing of business units, recruitment).
Operational/Service Delivery	Information related to business decisions and/or operations for which preliminary disclosure would cause harm.
Other	Confidential information that is provided to, obtained from, or as a result of a relationship with Eastern Health, regardless of where that information may be subsequently stored or used.

Information may be in several formats and includes, but is not limited to paper, electronic, film, visual, or verbal communications.

Employees, agents, physicians and students and contractors must access personal information and/or personal health information on a need-to-know basis only, and as defined by their role within the organization. Access to Eastern Health's records and information is a privilege. Access is granted only for the purpose of employment duties, or conducting business as per a contract or agreement. Intentional collection,

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use, and/or viewing of confidential information that is not necessary to perform one's legitimate duties is a breach of privacy and confidentiality, even if that information is not disclosed to another party. It is also a breach of policy to access your own personal health information. To access your own records, please refer to policy RM-CR(I)-300 Release/Disclosure of Personal Health Information from the Health Record to the Patient/Client/Resident or Authorized Representative.

Any employee or agent whose employment ceases with Eastern Health or any supplier/contractor whose contract ends with Eastern Health is required to treat all information mentioned above as confidential/private and must agree not to disclose it to any third party, for any reason unless given written authorization from the organization or required by law.

Privacy/Confidentiality Oath/Affirmation

All Eastern Health employees, agents, volunteers, contractors and those affiliated either indirectly or directly with Eastern Health must take an oath or affirmation of privacy/confidentiality. There are different forms (see Attachments), for employees, agents, physicians, vendors/contractors, foundation staff, volunteers and affiliates. The Oath/Affirmation will be renewed every five years, or at the discretion of Executive.

Breach of Confidentiality and/or Privacy

Individuals and corporations are held accountable for breaches of confidentiality and/or privacy. A breach includes the intentional and unintentional unauthorized access to, use, disclosure, and/or disposal of confidential information. A breach can include recorded and/or unrecorded information. Unauthorized sharing or disclosure of personal information or personal health information in any format, including on social media websites (e.g., Facebook and Twitter) is considered a privacy breach. All Eastern Health employees and agents have a responsibility to report breaches of confidentiality and/or privacy. If a breach is suspected it must be reported to the Privacy Officer (Access and Privacy Office) for follow-up, as per policy Privacy Breach Management, ACP-200.

If it is established that a breach of confidentiality and/or privacy has occurred, those individuals or corporations deemed responsible may be subject to penalty or discipline up to and including termination of employment, cancellation of contract or services, termination of the relationship with Eastern Health, withdrawal of privileges and/or legal action. Where applicable, reporting to an individual's professional regulatory body will be considered.

Legal Limits

In some cases, legislation requires disclosure of personal patient/resident/client information without the consent of the patient/resident/client, including the common law recognition of the Duty to Warn.

Reasonable Limits

While every effort is made to maintain confidentiality and privacy, the organization recognizes that, in practice, reasonable limits may be placed on the principle of confidentiality.

The actual facilities and dynamic environment in which services are provided can limit the degree to which privacy and confidentiality can be protected (e.g., 4-bed patient rooms, busy clinics, crowded ER departments, home visit environments).

Investigation of privacy/confidentiality breaches and/or other organizational processes defined by Eastern Health policies may necessitate disclosure of personal information and/or personal health information to staff not routinely privy to this level of access.

Understanding the environmental limitations inherent in the health care setting, information that is considered confidential and private is not to be discussed in any public location (elevators, lobbies, cafeterias, off premises, etc) where others, not entitled to receive that information, are present and likely to overhear.

Recognition of Professional Standards/Regulations

Eastern Health employees and agents may have disclosure/advocacy obligations arising from professional standards and regulations and concerns regarding safety of the patient/resident/client and services delivered. Eastern Health acknowledges the responsibility of health care professionals and organizations for appropriate disclosure to the public. It is the expectation that concerns/issues be first directed through the operational departments and programs of Eastern Health as the initial step toward resolution.

Scope

This policy applies to:

1. All Eastern Health employees;
2. All Eastern Health agents and affiliates;
3. Students placed/participating in Eastern Health services;
4. All Eastern Health Foundations and volunteers;
5. All vendors, contractors and suppliers of goods and services to Eastern Health;
6. Any individual or corporations either directly or indirectly associated with Eastern Health.

Purpose

To provide a framework for the consistent management of personal information and personal health information collected, used, disclosed and protected by Eastern Health in accordance with the principles and requirements of the various legislative Acts, including but not limited to the *Access to Information and Protection of Privacy Act*, the *Regional Health Authorities Act*, and the *Personal Health Information Act*.

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Procedure

1. This policy must be reviewed by employees and non-employee personnel at the time of hire or appointment.
2. This policy must be reviewed with all employees and non-employee personnel who may have access to confidential information within the scope of their work related duties or contract/agreement.

Supporting Documents *(References, Industry Best Practice, Legislation, etc)*

- *Access to Information and Protection of Privacy Act* , SNL 2002, c. A-1.1
- *Regional Health Authorities Act*, s. 25
- *Health Research Ethics Authorities Act* (proclaimed July 2011)
- *Personal Health Information Act*, SNL2008, c.P-7.01
- Canadian Standards Association (CSA) Model Code for the Protection of Personal Information CAN/CSA-Q830

Linkages

Policies

- Auditing of Access to Electronic Health Records HTM-050
- Collection of Personal Health Information ACP-020
- Communicating Patient/Resident/Client Information Via Electronic Mail (E-Mail) RM-CR(VI)-020
- Disclosure of Inpatient Location Information ACP-030
- Faxing Of Personal Information RM-CR(VI)-030
- Guidelines for Eastern Health Employees on Participating in Social Media
- Oath or Affirmation of Privacy/Confidentiality
- Occurrence Reporting and Management QRM-080
- Patient/Resident/Client Health Record Retention and Destruction RM-CR(V)
- Permitted Uses of Patient/Resident/Client Personal Health Information Without Consent RM-CR(1)-180
- Privacy Breach Management ACP-200
- Release/Disclosure of Personal Health Information from the Health Record to the Patient/Client/Resident or Authorized Representative RM-CR(I)-300
- Security Of Patient/Resident/Client Personal Health Information RM-CR(VI)-100

Forms

- [Privacy Confidentiality Oath or Affirmation for Volunteers \(ch-1820\)](#)
- [Privacy Confidentiality Oath or Affirmation for Students \(ch-1821\)](#)
- [Privacy Confidentiality Oath or Affirmation for Physicians \(ch-1822\)](#)
- [Privacy Confidentiality Oath or Affirmation for Foundation Staff and Affiliates \(ch-1823\)](#)
- [Privacy Confidentiality Oath or Affirmation for Employees \(ch-1824\)](#)

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- [Privacy Confidentiality Oath or Affirmation for Contractor Vendors \(ch-1825\)](#)
- [Privacy Confidentiality Oath or Affirmation for Affiliates \(ch-1826\)](#)

Key Words

- Affiliate
- Agent
- Confidentiality
- Privacy
- Breach of Confidentiality and/or Privacy
- Oath or affirmation of Confidentiality
- Commissioner of Oaths
- Notary Public

Definitions & Acronyms

Affiliate	A person authorized by Eastern Health, to act on its behalf or on behalf of another public body. This term includes designated staff within the Department of Child Youth and Family Services and other persons who are affiliated with Eastern Health.
Affirmation	Affirmation is a solemn declaration instead of an oath and has same legal effect as an oath. <i>Source:</i> http://dictionary.reference.com/browse/affirmation
Agent	A person authorized by Eastern Health to act on its behalf. This term includes physicians, volunteers, pastoral care workers as well as staff and contractors and other persons working within Eastern Health facilities or affiliated with Eastern Health.
Confidentiality	The duty to protect, respect and maintain the privacy of personal health and business information, the obligation to refrain from disclosing personal health information outside the “circle of care” or business information to others not involved with the use of the information in the normal course of their authorized work.
Privacy of Information	The right of an individual within limits to determine when, how and to what extent personal information is collected, used and disclosed about him/herself.
Disclosure	The provision or communication of personal health or business information outside of the authorized uses described.
Circle of Care	Circle of care is a concept intended to facilitate

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	<p>sufficient and appropriate information exchange among health care personnel and students involved in providing or assisting in professional care and support to a client, patient or resident. Relevant information is shared with all parties who "need to know" personal information in order to provide appropriate care, as well as those who "need to know" in order to plan appropriate follow-up care in another sector of the health and community services continuum. The circle of care does not include anyone that does not have a specific present or obvious future role in the health care of the client, and it does not include individuals with only an administrative role.</p>
<p>Duty to Warn</p>	<p>A term referring to the responsibility of a clinician to inform third parties or authorities if a client poses a threat to himself or to another identifiable individual. Based on common law, Duty to Warn gives clinicians the right to breach confidentiality if a client poses a risk to another person.</p>
<p>Notary Public</p>	<p>A public officer or other person authorized to authenticate contracts, acknowledge deeds, take affidavits, protest bills of exchange, take depositions, etc. <i>Source:</i> http://dictionary.reference.com/browse/notary+public</p>
<p>Personal Health Information</p>	<p>Identifying information in oral or recorded form about an individual that relates to</p> <ol style="list-style-type: none"> a. the physical or mental health of the individual, including information respecting the individual's health care status and history and the health history of the individual's family; b. the provision of health care to the individual, including information respecting the person providing the health care; c. the donation by an individual of a body part or bodily substance, including information derived from the testing or examination of a body part or bodily substance; d. registration information; e. payments or eligibility for a health care program or service in respect of the individual, including eligibility for coverage under an insurance or payment arrangement with respect to health care; f. an individual's entitlement to benefits under or participation in a health care program or

	<p>service;</p> <p>g. information about the individual that is collected in the course of, and is incidental to, the provision of a health care program or service or payment for a health care program or service;</p> <p>h. a drug as defined in the Pharmacy Act, a health care aid, device, product, equipment or other item provided to an individual under a prescription or other authorization issued by a health care professional; or</p> <p>The identity of a person's representative or guardian.</p> <p><i>Source – Personal Health Information Act</i></p>
<p>Personal Information</p>	<p>Information about an identifiable individual, including:</p> <ul style="list-style-type: none"> i. the individual's name, address or telephone number, ii. the individual's race, national or ethnic origin, colour, or religious or political beliefs or associations, iii. the individual's age, sex, sexual orientation, marital status or family status, iv. an identifying number, symbol or other particular assigned to the individual, v. the individual's fingerprints, blood type or inheritable characteristics, vi. information about the individual's health care status or history, including a physical or mental disability, vii. information about the individual's educational, financial, criminal or employment status or history, viii. the opinions of a person about the individual, and ix. the individual's personal views or opinions; <p><i>Source- Access to Information and Protection of Privacy Act.</i></p>