

WATERLOO REGIONAL HOMES FOR MENTAL HEALTH INC.

ADMIN POLICY MANUAL

COMMUNITY SUPPORT SERVICES

TITLE: PRIVACY	Number: CSS-6-20
Approved by: <i>Holt Sivak</i>	Page: Page 1 of 26
Executive Director	Date Approved: Oct. 19, 1993 Date Revised: May 11, 1998 February 2006 October 2014 July 2015

POLICY

Waterloo Regional Homes for Mental Health Inc. (WRHMH) strives to provide a supportive environment that encourages independence and respects individual rights and needs. In doing so, WRHMH deems all information related to the physical or mental health (including medical history) of consumers, staff & volunteers involved with the agency to be “**personal health information**” regulated by the Personal Health Information Protection Act (**PHIPA**) which came into force Nov 1, 2004. On the other hand, basic information collected from tenants when WRHMH is the landlord or has rent supplement agreements (commercial activity) is considered “**personal information**” regulated by the Personal Information Protection & Electronic Documentation Act (**PIPEDA**). These Acts apply to all forms of information: verbal, written or electronic.

WRHMH further embraces the view that it is holding information contained in its files on behalf of its consumers. The agency is committed to **protecting both personal health information and personal information** against loss, theft, unauthorized access, use, disclosure, copying, modification or disposal. These procedures also apply to **requests for information from the media** and to any kind of **public presentation**. Therefore, all staff (including those on contract and consultants) and volunteers (including students and Board members) are required to sign a confidentiality agreement at the time of their engagement with the agency and to apply the procedures of this Privacy Policy. They are also obliged to report any breaches of compliance with the legislation to management and / or the Privacy Commissioner of Ontario and cannot be reprimanded for doing so. Organizations that provide services of any kind to WRHMH Inc. or its consumers will also be required to sign a confidentiality agreement as a condition of their contract.

WRHMH has designated a **Privacy Officer** whose role it is to:

- answer questions from consumers and the public about the agency’s privacy and information protection practices
- ensure staff of WRHMH Inc. is aware of their responsibilities under PHIPA
- respond to and investigate any complaints about agency privacy practices
- inform a consumer if there has been a breach of procedures.

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Consumers requesting services from WRHMH Inc. will be **informed during the referral process** about the practices of the agency with respect to the information they provide. Further, a written public statement will be distributed and posted throughout the agency.

Consumer rights

Outlined in PHIPA & PIPEDA will be respected. Consumers have the right of access to the file of information held about them unless one of the exceptions outlined in the Acts apply. Consumers will be asked for their consent to disclose their information unless the Acts authorize release of information without the consumer's consent or unless another law requires the release of information. Consent to disclose information will apply to future disclosures unless the consumer informs the agency otherwise. Consumers have the right to deny consent to disclose information or to expressly withdraw their implied consent for its collection, use and disclosure (see procedures re "lockbox") unless the legislation specifies that consent is not required or unless other laws require the disclosure. A consumer may also ask to have a file of his/her information corrected if they can demonstrate that it is inaccurate or incomplete. Substitute decision makers have the same rights as consumers they represent.

Fundraising

Only the names and addresses of consumers will be collected, used and disclosed for fundraising activities that are specifically related to the services provided by WRHMH Inc. Authority to do so is based on the consumer's implied consent as long as they are aware they can opt out of solicitations and they have not done so within 60 days.

Property tours

In an effort to respect the privacy and confidentiality of the people living in properties owned by Waterloo Regional Homes for Mental Health Inc. prior approval must be received from management with input from the tenants residing at the property before conducting property tours and orientation for new staff. The primary criterion used to make a decision will be to minimize intrusion on the privacy of the tenants.

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Personal Health Information of Employees

Any health information received by the agency from a healthcare provider concerning any current or former employee is also considered personal health information. The agency will only use or disclose the information for the authorized purpose for which it was received or for the purpose of carrying out a statutory or legal duty. The consent of the employee to release the information is required.

The 10 Principles of Privacy

Our Privacy Policy reflects our compliance with fair information practices, applicable laws and standards of practice. Each of the 10 principles listed below are elaborated upon in Appendix A.

1. Accountability
2. Identifying Purposes: Why We Collect Information
3. Consent
4. Limiting Collection
5. Limiting Use, Disclosure and Retention
6. Accuracy
7. Safeguards: Protecting Your Information
8. Openness: Keeping You Informed
9. Access and Correction
10. Challenging Compliance

We encourage consumers to contact us with any questions or concerns s/he might have about their privacy or our Privacy Policy. We will investigate and respond to concerns about any aspect of our handling of information.

In most cases, an issue is resolved simply by telling us about it and discussing it. Consumers can reach us at:

Director of Community Services & Housing / Privacy Officer
Waterloo Regional Homes for Mental Health
618 King Street West, Kitchener, ON N2G 1C8

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If, after contacting us, a consumer feels that her/his concerns have not been addressed to his/her satisfaction, s/he has the right to complain to the Information and Privacy Commissioner of Ontario. The Commissioner can be reached at:

2 Bloor Street East, Suite 1400
Toronto, Ontario M4W 1A8
1-800-387-0073
1-416-325-9195 (fax)

or to the Office of the Privacy Commissioner of Canada's Investigations Branch in relation to personal information protection (PIPEDA) at:

Office of the Privacy Commissioner of Canada
30 Victoria Street
Gatineau, Quebec
K1A 1H3

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PROCEDURE

1. OBLIGATIONS OF STAFF and VOLUNTEERS

- All new employees (including staff on contract & consultants) and volunteers (including students & Board members) will be introduced to the Privacy Policy during their orientation.
- All employees & volunteers are required to sign a Confidentiality Agreement at the time of their engagement with the agency. This is a condition of employment and it is the responsibility of supervisors to ensure that their staff sign the agreement and submit it to personnel files.
- Failure to apply the privacy policy of Waterloo Regional Homes for Mental Health Inc. may result in disciplinary action as outlined in **Disciplinary Policy HR-3-470**.
- All employees and volunteers are obliged to report any breaches of compliance to the Privacy Commissioner of Ontario (re PHIPA) or the Privacy Commissioner of Canada (re PIPEDA) and cannot be reprimanded for doing so. It is expected that the situation will be reviewed with the immediate supervisor prior to reporting to any PCO. Should the breach relate to an action of the immediate supervisor, discussion should take place with the WRHMH Inc. Privacy Officer.
- Only those who require the specific information to perform their function at WRHMH Inc. may access the file of consumers or staff.
- Staffs who respond to a referral will inform all new consumers about the practices of the agency with respect to their confidential information. A copy of the agency's public written statement will be provided at that time. Forms that are completed at the first point of contact will include information about the consumers' wishes whether phone messages and written correspondence can include the name of WRHMH Inc.

2. STORAGE & RETENTION OF FILES

- A consumer file is established at the point of initial contact with a program and is retained as active until services are no longer provided to the consumer. A central repository of consumer files is maintained at the head office. In addition, personal information of tenants is stored in a separate Tenant file and financial information

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in a collective file. Each consumer's file indicates the location of other PHI at satellite sites or residences. When a consumer file is given to or removed by an employee, a replacement card is inserted in the file drawer indicating who has the document and the date it was removed from the drawer.

- It is the responsibility of staff that has access to consumer files to keep them locked in cabinets when not in use.
- All consumer files will remain on-site at any of the WRHMH Inc. buildings and be secured in locked cabinets when not in use. Specific authorization must be obtained to remove the file from the office for exceptional situations such as court proceedings or multi-agency case conferencing. Exceptionally and due to the nature of services provided, some staff may be specifically authorized by their immediate supervisor to carry with them essential PHI of consumers and to create documentation during their hours away from the office/residence. Consumer information may also be contained in day planners, pagers or working binders which staff carry with them. All files and other containers of information are never to be left unattended (e.g., in automobiles). All electronic containers of information holding PHI are to be password protected. Files must be returned to the office the next day the office is open. All consumer files, however, must be returned to the office before a weekend or days off. This applies to all staff – both full and part-time.
- The current active file of a consumer is the “Working file”. Each individual receiving on-going support will have an open active working file that is kept in a central place in the office. Cabinets will be locked after normal workday hours. Information more than two years old will be archived and kept in a separate location. The working file must note that the file is incomplete and provide the location of the archived file. Notes stored on computer disks or hard drives are not acceptable; “hard copies” of notes must appear in the file.
- Consumer information will be retained for a period of ten years after the consumer has ceased his/her involvement with Waterloo Regional Homes for Mental Health Inc. Archived files will be culled annually to identify those that should be shredded. Any companies contracted to shred files will be obliged to follow privacy procedures during the destruction process.
- A destruction log will be kept indefinitely by the privacy officer indicating the name of patient, the method of destruction and the start/stop date of records.

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3. ACCESS TO CONSUMER FILES

3.1 Access by the Consumer to His/Her File

- A consumer may request access to his/her file or to any other information that may be held outside the formal file (may also include “working files”/progress notes held by staff in their office).
- Any information generated and/or compiled by Waterloo Regional Homes for Mental Health Inc Inc. may be accessed by the consumer.
- The consumer may not access information contained in the file that refers to PHI/PI of another person.

Procedure:

The consumer must submit a written request to the Privacy Officer. They may use WRHMH Inc. form: “Consumer Request for Access to Information” or write a letter specifying the information they would like to access. Clerical staff will place the original copy of the request in the consumer’s file, provide a copy to the Privacy Officer and enter the request into the “Access to Information Log” in a timely fashion.

The Privacy Officer must respond to the consumer’s request for information as soon as possible but at most within 30 calendar days. If extra time is needed, the response time can be extended to 60 days but the consumer must first be informed and given the reason for the extension.

Once it has been determined that the consumer is entitled to the information he/she has requested, the consumer may review the information on site or may request a copy. Copies totalling 20 pages or less will be provided at no charge. Copies above 20 pages will be provided at a rate of \$0.15 per page. The consumer will be notified of this fee at the time the request is made. The cost per page will be re-evaluated annually.

The Privacy Officer or delegate will determine if information contained in the file must be blacked out or removed before the consumer has access to the file, and if so, will arrange for this to be done.

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3.2 Denial of a Consumer's Request For Access to His/Her File

The Privacy Officer may also deny access to information if the following conditions apply:

- there is reason to believe that giving the consumer access would interfere with any legal privilege attached to the file or to information in the file
- the disclosure is prohibited by law or court order
- the information in the file was collected or created primarily in anticipation of, or for use in, a proceeding, and the proceeding, together with all appeals or processes resulting from it, have not been concluded
- the information was collected or created in the course of an inspection, investigation or similar legally authorized procedure, or done in order to detect, monitor or prevent fraud; the inspection, investigation, or other procedure and any other appeals or processes have concluded
- granting the access could reasonably be expected to:
 - result in a risk of serious harm to the treatment or recovery of the individual or a risk of serious bodily harm to any person, or
 - lead to the identification of a person who was legally required to give the information to the custodian
- the person who provided information in the file to the agency did so in confidence and the Privacy Officer believes that person's identity should be protected.
- WRHMH Inc. has disclosed information to a law enforcement /national security organization and has been instructed not to reveal that the information has been released (PIPEDA).
- the information falls under solicitor-client privilege(PIPEDA)
- the information was generated in the course of a formal dispute resolution process (PIPEDA)

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Procedure:

When the consumer is denied access to information in his/her file, the Privacy Officer will:

- a) inform the consumer in writing of the denial and, for PHI, of the reason for the denial
- b) sever that part of the file to which the consumer is not entitled and provide the rest
- c) inform the consumer of his/her right to make a complaint to either of the Privacy Commissioners.

4. REQUEST FOR CORRECTION OF INFORMATION

- If a consumer identifies an error or omission in the file, they may submit a written notice of correction that will be placed in the file.
- Correction to the file must be made when the consumer demonstrates that the file is incomplete or inaccurate and provides the information required to make the correction.
- Under no circumstances is the original file to be obliterated. A line can be struck through the original information, initialled by the Privacy Officer & a note inserted referring to a later page in the file where the correct information is to be inserted.
- If the Privacy Officer refuses to make the correction, he/she must inform the consumer of the right to make a complaint to the Privacy Commissioner.
- Response to requests for correction must be made as soon as possible and no later than 30 calendar days. If additional time is required to respond, the consumer must be notified.
- No fee can be charged for making a correction to the file.
- Should a correction request be denied the consumer may issue a Statement of Disagreement that the privacy officer will attach to the client record in question. Any release of the record in question to an outside agency will be accompanied by the Statement of Disagreement.

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5. USE AND DISCLOSURE OF INFORMATION

In all circumstances except those where PHIPA/PIPEDA permit disclosure without the consumer's consent or where other laws require disclosure, the consumer's consent must be obtained before information can be used or disclosed.

Capacity to Consent

1. To be capable of consenting, a consumer must be able to understand:
 - a) The information needed to make a decision on whether or not the consumer should consent to the collection, use or disclosure of personal health information, and
 - b) The consequences of giving, withholding or withdrawing consent.
 - c) When a consumer is not capable of providing consent you may get consent from a Substitute Decision Maker (SDM) (ranked in order as listed) from the consumer's:
 - i. Guardian (if guardian has the authority to make such decisions)
 - ii. Attorney for personal care or attorney for property (if the attorney has authority)
 - iii. Representative (appointed by Capacity Board)
 - iv. Spouse or partner
 - v. Child, custodial parent, or children's aid society or other person legally entitled to give or withhold consent in place of a parent)
 - vi. Parent with access rights
 - vii. Brother or sister, and
 - viii. Any other relative (related by blood, marriage or adoption).
 - ix. If the consumer has died, you can get consent from the consumer's estate trustee or someone in charge of administering the consumer's estate.
 - x. To consent for a consumer, the person must be:
 - included in the list above,
 - available and capable of consenting,

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- at least 16 years old or the consumer's parent,
- willing to assume responsibility for giving or refusing consent,
- free of any court order or separation agreement prohibiting them from having access to or consenting for the consumer, and
- the highest ranked person on the list of potential substitute decision-makers who is available and capable of consenting.

If a consumer is not capable of consenting and you cannot find anyone capable of consenting on their behalf and willing to take on this role, contact the Public Guardian and Trustee who can consent for the consumer.

The Public Guardian and Trustee can also give consent if two or more equally high-ranking substitute decision-makers disagree about whether to consent. The Public Guardian and Trustee breaks the deadlock. The Public Guardian and Trustee can be reached at:

Ministry of the Attorney-General
Office of the Public Guardian and Trustee
595 Bay Street, Suite 800
TORONTO, ON M5G 2M6
Telephone (416) 327-6683 or 1-800-366-0335

Children and Teenagers

Children of any age are presumed to have the capacity to consent to the collection, use and disclosure of their personal health information. Do not presume capacity if it is not reasonable.

For children under 16, a parent or other lawful guardian may consent to the collection, use or disclosure of personal health information even if the child has capacity, unless the information relates to:

- a. Treatment within the meaning of the Health Care Consent Act, 1996 about which the child has made his or her own decision, or
- b. Counseling in which the child had participated on his or her own under the Child and Family Services Act.

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If there is a conflict between the child and the parent, the capable child’s decision prevails with respect to the consent.

Express consent of the consumer must be obtained when:

- Giving PHI/PI to someone who is not a custodian, such as an employer, insurer or family member who is not a substitute decision maker
- Giving information to a custodian who intends to use it for a purpose unrelated to healthcare such as a nurse who reviews claims for an insurance company
- Sharing information within WRHMH Inc. or giving it to a third party for marketing purposes or for fundraising unless all the conditions for relying on an implied consent are met(See section re Fundraising)
- Providing basic required information to a rent supplement landlord unless the release is required by law.

Procedure:

In most situations, a “Consent to Release Information” form must be signed by the consumer and submitted to clerical staff before WRHMH Inc. can release the information. Clerical staff will file the form in the consumer’s file and info about the consent entered in the “Access, Disclosure Log” kept in the consumer’s file.

At the time the consumer signs the consent form, support staff will inform them that the consent will apply to future disclosures unless they inform the agency otherwise. A statement to this effect appears on the form. If the consumer objects, this section should be crossed out and initialed by the consumer. The Privacy Officer should be notified in writing of the restriction. When information is disclosed after the initial consent is signed, it can be assumed that the previous consent applies unless staff has any reason to believe it does not (e.g., knowledge that the consumer’s relationship with those to whom the information is to be disclosed has changed).

When tenants provide financial revenue information for rent geared to income applications, the form they sign will indicate that information they provide may be verified by WRHMH Inc. with the source of the revenue if necessary.

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5.1 Use of PHI without consumer consent within WRHMH INC.

When consumer information is being used to support and improve the services provided by WRHMH Inc., specific consent of the consumer(s) is not required by the legislation. Therefore, staff and volunteers of WRHMH Inc. may proceed without obtaining consent from the consumer(s) when the information is being used:

- For the purpose for which the information was created and any related functions.
- To share information among staff to provide better care to consumers. WRHMH Inc. operates utilizing a team approach, thus *pertinent* information concerning individual consumers may be shared amongst program staff and volunteers. Caution must be exercised, however to share only with those who require the PHI/PI of an individual consumer to complete their function and only the amount and type of information necessary.
- Where it is not feasible to get advance consent from the consumer to do so, a message may be left with another person to have the consumer call WRHMH Inc. Minimal information should be left.
- For staff education activities.
- To plan or deliver programs or services, allocate staffing or funding.
- For activities related to risk management and improvement of the quality of services (e.g., chart audits to ensure adequate documentation) or maintain a high level of internal fiscal accountability.
- For research conducted within WRHMH Inc., as long as the research rules in PHIPA have been applied (see section 44 of the law).
- When agency staff are preparing to be a party or witness in a proceeding (or anticipated proceeding) before a court or tribunal, such as the Consent and Capacity Board or the Ontario Review Board and need to consult with other agency staff or legal representative; at an inquest; or as part of a review of professional conduct by the College of a regulated profession. For examples of typical situations, see Appendix I of this policy.
- In order to obtain payment for health care services.
- For purposes of disposing of the information (such as hiring a shredding company) or in order to de-identify the information.

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Procedure:

Staff should consult the Privacy Officer only if there is some doubt that the situation falls within one of the above categories.

Caution must be exercised to share information only with those who require the PHI/PI of an individual consumer to do their job and only the amount and type of information necessary.

5.2 Implied Consent to Collect, Use or Disclose PHI for Fundraising Activities

Only the names and addresses of consumers will be collected, used and disclosed for fundraising activities that are specifically related to the services provided by WRHMH Inc.

Procedure:

Consumers will be informed through the Agency's public statement that their name and address may be used for fundraising related to the services of WRHMH Inc. and that they may opt out.

If the consumer has not opted out within 60 days of knowing they may do so, their name and phone number may be used based on an assumption of implied consent.

The solicitation or communication may not include any information about the consumer's health or healthcare unless specifically authorized by the consumer. Similarly, even names and telephone numbers will not be provided to third party fundraisers unless the consumer has expressly agreed.

5.3 Disclosure of PHI between organizations (giving and requesting) without consumer consent

WRHMH Inc. may disclose information to other healthcare providers without obtaining formal consent from the consumer in some specific situations spelled out in PHIPA. Included in this category is the so called "**circle of care**". The "circle of care" are people or organizations involved in delivering healthcare to the consumer and includes but is not limited to:

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- Health care practitioners and groups of health care practitioners
- Public and private hospitals
- Pharmacies
- Laboratories
- Ambulance services
- Community care access corporations
- Community service providers (*defined in the Long Term Care Act*)
- Psychiatric facilities
- Independent health facilities
- Homes for the aged, rest homes, nursing homes, care homes and homes for special care
- Community health or mental health centers, programs and services whose primary purposes are providing health care
- Those who provide health care or assist in providing health care to a particular consumer.

Healthcare providers are permitted to share or disclose information with/to each other when the information is required in order to enhance the care/ services provided to the consumer (to “benefit” the consumer). They give each other information based on ***implied consent***. This applies as long as the consumer has not issued express wishes that prevent the disclosure of that information (see section re the **Consumer’s Right to “Lock” Information**). This measure is usually applied in circumstances where there is some urgency or where it is impractical to reach the consumer in a timely way.

In other circumstances WRHMH Inc. **must disclose** information to others as required by another law.

5.3.1 Giving Information to other Organizations/ Healthcare Providers

WRHMH Inc. will **disclose (give)** PHI/PI to other organizations without the consumer’s consent in the following circumstances permitted by PHIPA/PIPEDA:

- to members of the consumer’s “**CIRCLE OF CARE**” if it is understood that the sharing of information is for the purpose of providing healthcare and will benefit

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the consumer and if the consumer has not issued express wishes to the contrary. See section re Consumer's Right to "Lock" Information for exceptions

- to assist in a consumer's placement in a facility for health purposes
- when health or other government funded programs are verifying eligibility of the consumer to receive services/benefits
- in circumstances where it is necessary to eliminate or reduce a significant risk of serious bodily harm to the consumer or other person
- to assist in placing an individual into a custodial setting, such as under the Criminal Code mental disorder provisions
- for the purpose of identifying an individual who is deceased, or is reasonably suspected to be deceased, or to inform any person who should reasonably know of the death (or suspicion of the death) and of the circumstances of the death. This includes the spouse, partner, sibling or child of the individual if the recipients of the information reasonably require the information to make decisions about their own health care or their children's health care.
- in proceedings of a court or tribunal in which staff or the agency is a party or witness, "if the information relates to or is a matter in issue at the proceeding"¹ or "to comply with a summons, order or requirement issued in a proceeding by a person having jurisdiction to compel the production of information"²
- for service audits & accreditation of services
- to designated organizations whose information practices have been approved by the Privacy Commissioner of Ontario, for planning & management of the health system
- for research under specific conditions outlined in section 44 of PHIPA
- to a lawyer representing WRHMH Inc. (PIPEDA)
- to collect a debt owed to WRHMH Inc. (PIPEDA)
- to a government institution with authority to enforce, investigate or gather intelligence relating to federal, provincial, international law, national security, defense or international affairs (PIPEDA)

Procedure:

1 PHIPA Section 41(1)a
2 PHIPA Section 41(1)d

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Staff should consult the agency list of other organizations that are considered in the “circle of care” and consult the Privacy Officer if there is some doubt that the disclosure falls within any of the above categories.

Information about the disclosure must be entered in a cumulative “Disclosure of Information Log” in the consumer’s file by staff who have disclosed the information. At a convenient time, the consumer should be informed if circumstances permit.

5.3.2 Requesting Information from Other Healthcare Providers

As a member of the consumer’s “**Circle of Care**”, staff of WRHMH Inc. who require the information to do their job may **request PHI from another healthcare provider**

- Verbally if there is some urgency to obtain the information or if the information is obtained in the context of developing support plans jointly with other health providers.
- In writing when requesting copies from a consumer file held by another health provider.

Procedure:

Staff should consult the Privacy Officer only if there is some doubt that the request for information can be made without the consent of the consumer. The request should be discussed with the staff supervisor before being sent.

Requests for copies from another health provider should be made by completing the form “Request For PHI To Be Provided To Another Healthcare Provider” and placing a copy in the file of the consumer before sending it to the other organization.

5.3.3 Disclosing Information when required by other Laws

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WRHMH Inc. will **disclose** PHI/PI to other organizations without the consumer's consent in the following circumstances **required by other laws:**

- Information about a child in need of protection due to suspected abuse or neglect under the Family & Children's Services Act,
- Information to diagnose, investigate, prevent, treat or contain communicable diseases under the Health Protection & Promotion Act,
- Facts provided to the Coroner or designated police officer regarding the death of an individual in prescribed circumstances (e.g., violence, negligence or malpractice) or information requested for the purpose of an investigation under the Coroner's Act
- Information required by warrant or summons or subpoena
- Where an investigation or inspection is being conducted by a **Police Investigator or Inspector** or where any law enforcement personnel are acting **with a warrant.** In other circumstances where the police do not have a warrant or where Probation and Parole services request information, the express consent of the consumer will be required.
- In the circumstances where in the professional opinion of the Privacy Officer the disclosure of information is necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm to an individual or a group of persons, the "locked" information may be disclosed.

Procedure:

Staff should consult the Privacy Officer if there is some doubt that the disclosure falls within one of the above categories.

In situations where the Police are requesting information and do not have a warrant, staff must consult the Director of Community Services & Housing (DCSH) or the Executive Director (ED). Where there are reasonable grounds to believe that the disclosure is necessary in order to eliminate or reduce a significant risk of serious bodily harm, the DCSH or ED may decide to disclose the information requested.

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Information about the disclosure must be entered in a cumulative “Disclosure of Information Log” in the consumer’s file by staff who have disclosed the information. At an appropriate time, the consumer should be informed.

6. CONSUMERS RIGHT TO “LOCK” PHI

A consumer may instruct WRHMH Inc. not to disclose specific personal health information to another custodian/healthcare provider. In so doing, the individual is said to have placed his/her PHI into a “lock-box”. This right applies only where consumers are entitled to give consent (see “express consent”) or when they are expressly withdrawing their implied consent.

- **In the circumstances where in the professional opinion of the Privacy Officer the disclosure of information is necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm to an individual or a group of persons, the “locked” information may be disclosed.**

Procedure:

Instructions that specify restrictions for disclosure of information must be submitted in writing by the consumer to the Privacy Officer and will be maintained at the front of the consumer’s file. Consumers may use a WRHMH Inc. form: “Lock –Box Request” or write their own letter.

Any requests for disclosure of information from the file will be checked against any lock box instructions & information about the request entered in the cumulative “Access/Disclosure/Lock-Box” log in the consumer file.

When a consumer has issued restrictions and another healthcare provider requests that information, the Privacy Officer or designate will inform the other healthcare provider that the information has been “locked” by the consumer. No other details will be provided.

When there are circumstances that justify the disclosure of information against the wishes of the consumer, for the purpose of eliminating or reducing a significant risk of serious

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bodily harm to an individual or a group of persons, staff must consult the Privacy Officer. Should the Privacy Officer decide to disclose information against the wishes of the consumer, he/she will inform the consumer in writing of the decision at a time that is in the best interests of the consumer and insert a copy in the consumer's file.

7. USE OF FILES FOR RESEARCH

- Consumer files may be made available to agency approved researchers with proper authorization and documentation. Requests for information by researchers require prior approval from the ED or the DCSH.
- For the purpose of research or the compilation of statistical data, all identifying information will be removed from any published reports. The researchers must shred working material that contains PHI of consumers of WRHMH Inc.

8. PUBLIC RELATIONS

- All press communication will be forwarded to the attention of the ED, President or designate.
- Public presentations require prior approval from the ED or DCSH.

9. PROPERTY TOURS

- Requests for property tours should be directed to the DCSH who will approve or deny the access based on input from tenants and with consideration for minimizing intrusion on the privacy of tenants. The Housing Support Co-ordinator will coordinate arrangements for any approved tours in conjunction with the tenants.

10. EMPLOYEE HEALTH INFORMATION

- Personal health information received about an employee's health is stored in the employee's health file.
- Files are stored in a locked cabinet and access to the file is controlled by the Director of Human Resources. Written requests for access to or disclosure of

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information from the employee file must be approved by the Director of Human Resources.

- The personal health information is only used for the purpose for which it was received and in relation to agency return to work procedures.
- Both current and former employees may request access to the file by submitting a written request to the Director of Human Resources.
- Information from the file of current and former employees will only be disclosed to others with the consent of the employee or as required by other legislation.

11. Contracted organizations/ companies

- At the time that a contract for services is negotiated, the contractor will be given a standard confidentiality agreement for signature as a condition of their contract.

Related Policies

Disciplinary Policy - Policy# HR-3-400

Modified Work and Return to Work (Health & Safety) HS Policy – HS Policy HS-7-540

Forms:

Confidentiality Agreement

Consumer Request for Access to Information

Consent to Release Information

Request for PHI to be provided to another health care provider

Lock-Box Request Form

Consent to Withdrawal Form

Consent to Disclose PHI Form

Access to Information Log

Disclosure of Information Log

Access/Disclosure/Lock-Box Log

Access, Disclosure Log in Consumer File

Related Legislation

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Appendix A

The 10 Principles of Privacy

Our Privacy Policy reflects our compliance with fair information practices, applicable laws and standards of practice.

1. Accountability

We take our commitment to securing consumer privacy very seriously. Each staff person associated with the Agency is responsible for the personal information under his/her control. Our employees are informed about the importance of privacy and receive information periodically to update them about our Privacy Policy and related issues.

2. Identifying Purposes: Why We Collect Information

We ask consumers for information to establish a relationship and serve healthcare needs. We obtain most of our information about consumers directly from consumers, or from other health practitioners with whom the consumer has worked and authorized to disclose Personal Health Information to us. Consumers are entitled to know how we use their information and this is described in the Privacy Statement posted at Waterloo Regional Homes for Mental Health Inc.. We will limit the information we collect to what we need for those purposes, and we will use it only for those purposes. We will obtain consumer consent if we wish to use their information for any other purpose.

3. Consent

Consumers have the right to determine how their personal health information is used and disclosed. For most health care purposes, consent is implied as a result of a consumer's consent for provision of services, however, in all circumstances express consent must be written.

A consumer's written Consent will be documented in their file and Health care providers and their supporting staff will be notified as appropriate.

Consumers who have withdrawn consent to disclose PHI must sign and date the **Consent to Withdrawal Form**. It is understood that the consent directive applies only to the PHI which the consumer has already provided, and not to PHI which the consumer might provide in the future: PHIPA permits certain collections, uses, and disclosures of the PHI

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despite the consent directive; healthcare providers may override the consent directive in certain circumstances, such as emergencies; and the consent directive may result in delays in receiving health care, reduced quality of care due to healthcare provider's lacking complete information about the consumer, and healthcare provider's refusal to offer non-emergency care. The completed written Consent to Withdrawal Form will be documented in the consumer's file and Health care providers and their supporting staff will be notified as appropriate.

4. Limiting Collection

We collect information by fair and lawful means and collect only that information which may be necessary for purposes related to the provision of healthcare.

5. Limiting Use, Disclosure and Retention

The information we request from consumers is used for the purposes defined. We will seek consumers' consent before using the information for purposes beyond the scope of the posted **Privacy Statement**.

Under no circumstances do we sell consumer lists or other personal information to third parties. There are some types of disclosure of personal health information that may occur as part of this Agency fulfilling its routine obligations and/or practice management. This includes consultants and suppliers to the Agency on the understanding that they abide by our Privacy Policy, and only to the extent necessary to allow them to provide business services or support to this Agency.

We will retain your information only for the time it is required for the purposes we describe and once your personal information is no longer required, it will be destroyed. However, due to our on-going exposure to potential claims, some information is kept for a longer period.

Consumers may be required to sign and date a **Consent to Disclose PHI Form** and pay a fee should copies be requested.

Consumer information will be retained for a period of ten years after the consumer has ceased his/her involvement with Waterloo Regional Homes for Mental Health Inc. Thereafter, the file will be shredded ensuring privacy is respected during the process.

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6. Accuracy

We endeavour to ensure that all decisions involving consumers' personal information are based upon accurate and timely information. While we will do our best to base our decisions on accurate information, we rely on consumers to disclose all material information and to inform us of any relevant changes.

7. Safeguards: Protecting Your Information

We protect all forms of information collected from consumers or on their behalf (verbal, written and electronic) with appropriate safeguards and security measures. The Agency maintains personal information in a combination of paper and electronic files. Recent paper records concerning individuals' personal information are stored in files kept onsite at our office. Older records may be stored securely offsite.

Access to personal information will be authorized only for the employees associated with the Agency, and other agents who require access in the performance of their duties and to those otherwise authorized by law.

We provide information to health care providers acting on consumers' behalf on the understanding that they are also bound by law and ethics to safeguard consumers' privacy. Other organizations and agents must agree to abide by our Privacy Policy and may be asked to sign contracts to that effect. We will give them only the information necessary to perform the services for which they are engaged and will require that they not store, use or disclose the information for purposes other than to carry out those services.

Our computer systems are password-secured and constructed in such a way that only authorized individuals can access secure systems and databases.

If a consumer sends us an e-mail message that includes personal information, such as their name included in the "address", we will use that information to respond to her/his inquiry. Remember that e-mail is not necessarily secure against interception. If the communication is very sensitive, consumers should not send it electronically. Staff will not respond to communication containing personal information through a non-secure medium.

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8. Openness: Keeping You Informed

The Agency has prepared this plain-language Privacy Policy to keep consumers and staff informed.

If consumers or staff have any additional questions or concerns about privacy, we invite them to contact us by phone and we will address their concerns to the best of our ability.

9. Access and Correction

With limited exceptions, we will give consumers access to the information we retain about them within a reasonable time upon presentation of a written request and satisfactory identification (e.g., government issued photo identification).

We may charge consumers a fee for this service and if so we will give them notice in advance of processing the request.

If a consumer finds errors of fact in her/his personal health information, s/he should notify us as soon as possible and we will make the appropriate corrections. We are not required to correct information relating to clinical observations or opinions made in good faith. A consumer has the right to append a short statement of disagreement to her/his record if we refuse to make a requested change.

If we deny a request for access to personal information, we will advise the consumer in writing of the reason for the refusal and s/he may then challenge our decision.

10. Challenging Compliance

We encourage consumers to contact us with any questions or concerns s/he might have about their privacy or our Privacy Policy. We will investigate and respond to concerns about any aspect of our handling of information.

In most cases, an issue is resolved simply by telling us about it and discussing it. Consumers can reach us at:

Director of Community Services & Housing / Privacy Officer
Waterloo Regional Homes for Mental Health
618 King Street West, Kitchener, ON N2G 1C8

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If, after contacting us, a consumer feels that her/his concerns have not been addressed to his/her satisfaction, s/he has the right to complain to the Information and Privacy Commissioner of Ontario. The Commissioner can be reached at:

2 Bloor Street East, Suite 1400
Toronto, Ontario M4W 1A8
1-800-387-0073
1-416-325-9195 (fax)

or to the Office of the Privacy Commissioner of Canada's Investigations Branch in relation to personal information protection (PIPEDA) at:

Office of the Privacy Commissioner of Canada
30 Victoria Street
Gatineau, Quebec
K1A 1H3