

Disclaimer to Custodians: This is a sample policy only. It may not be suitable for your circumstances and should not be relied on as legal advice.

Policy No.

TITLE: Sample Use of Personal Health Information Policy

EFFECTIVE: (insert date)

1. SCOPE

1.1. Authority

Yukon's *Health Information Privacy and Management Act* (HIPMA) (s.55-56) governs the use of personal health information.

1.2. Application

This policy and associated documents apply to all {NAME OF CUSTODIAN} Employees and agents.

1.3. Purpose

This policy outlines the permitted Uses of Health Information {NAME OF CUSTODIAN} has in their custody or control.

This policy outlines when {NAME OF CUSTODIAN} and its agents may use personal health information in their custody or control, in accordance with the *Health Information Privacy and Management Act*.

1.4. Definitions

Use means the handling or dealing with personal health information and the information sharing between a custodian and their agent. (s.2)

Health information means identifying information of an individual, in a recorded or unrecorded form that relates to: the individual's health; provision of health care; payments for health care; donation of body parts, tissue or substance of an individual, or testing (*Health Information Privacy and Management Act* s. 2(1))

Personal health information (PHI) means health information of an individual (*Health Information Privacy and Management Act* s.2(1))

Agent means an employee, volunteer, student, information manager, or contractor who acts for or on behalf of the custodian in respect to the PHI.

Consent must be (s.38):

- Knowledgeable;
- Related to the PHI, and
- Given voluntarily and not obtained through fraud and misrepresentation.

Express Consent is not required to be in writing. However, if express consent is given verbally, the custodian who receives the consent must record it.

Implied Consent is not stated verbally or in writing, but can be assumed by the individual's actions. For example, an individual who enters the ER for treatment is giving their implied consent for the ER doctor to access their medical records for the purpose of providing treatment.

Health Care means any activity that includes any service, assessment, care, or procedure related to the prevention of disease, rehabilitative or palliative care, or the diagnosis, or treatment of an individual's mental or physical condition. Under this definition health care also extends to the compounding, dispensing or selling of a drug, device, or equipment as medically prescribed to the individual.

2. POLICY STATEMENT

2.1. General

{NAME OF CUSTODIAN} will limit the amount of Personal Health Information (PHI) used to the minimum amount reasonably necessary to achieve the purpose for the use (s. 16).

PHI is understood to include mixed records.

2.2. Use Requiring Consent

{NAME OF CUSTODIAN} may use PHI for providing healthcare to the individual, unless that individual has expressly refused or withdrawn their consent.

Express consent from the individual is required:

- For fundraising activities;
- For use in research or marketing when using identifiable information, or

- For use in the media, including radio, television, internet, and social media.

2.3. Use Not Requiring Consent

{NAME OF CUSTODIAN} may use the individual's PHI without consent in the following situations:

Use for a legally prescribed purpose:

- If the PHI is available to the public, or
- In accordance with an enactment of Yukon or Canada, or a treaty arrangement that permits the use.

Use for the Patient care:

- For the purpose of reducing or assessing the risk of serious harm to the individual or others;
- For assembling a family or genetic history of the individual;
- For determining or carrying out the individual's wishes regarding organ, tissue, or bodily substance donation;
- If the individual is deceased:
 - To identify the deceased, and
 - For informing any person who it is reasonable to inform that the individual is deceased.
- To determine, assess, or confirm capacity.

Use for {NAME OF CUSTODIAN} program maintenance and delivery:

- To educate agents in respect to the provision of the healthcare;
- To determine eligibility for service if {NAME OF CUSTODIAN} collected the PHI when processing the application, and if the individual is participating in the program or is receiving the health care, good, or service;
- To manage, auditing {NAME OF CUSTODIAN} healthcare activities;
- Carry out quality improvement;
- To modify (including de-identifying) dispose, or destroy the PHI, and
- For the purpose of payment for a service, good, or program of {NAME OF CUSTODIAN}.

Use for legal purposes:

- For a proceeding or a contemplated proceeding in which {NAME OF CUSTODIAN} or an agent are or are expected to be a party or a witness and the PHI relates to the proceeding or contemplated proceeding, or
- For the prevention, detection, or investigation of a fraud or suspected fraud or abuse or the healthcare system.

Authorized access to the Yukon Health Information Network (YHIN) is a use, and not considered a collection or disclosure under HIPMA (s.82). Unless there an authorized consent directive in place, consent is not required to access YHIN.

A custodian may use PHI already in its custody and control for research (s.67).

Any questions should be directed to {NAME OF CUSTODIAN} Privacy Contact:

{CONTACT INFO}

SAMPLE