



Health and Social Services

**HEALTH AND SOCIAL SERVICES  
CORPORATE POLICIES**

**POLICY IM-008**

**TITLE:** Use of Personal Health Information Policy

**CATEGORY:** Information Management

**EFFECTIVE:** August 31, 2016

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**1. Scope**

Definitions of key terms are set out in section 1.4 of this policy.

**1.1. Authority**

Yukon's *Health Information Privacy and Management Act (HIPMA, s.55 & s.56)* governs the use of personal health information within Health and Social Services (HSS).

**1.2. Application**

This policy and associated documents apply to all HSS employees and agents.

**1.3. Purpose**

The purpose of this policy is to outline the permitted uses of personal information/personal health information in the custody or control of HSS, in accordance with the *HIPMA*.

**1.4. Definitions**

**Use** includes the handling or dealing with personal health information and the information sharing between HSS employees and agents. (*HIPMA, 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 or testing of, body parts, tissue or substance of the individual. (*HIPMA, ss. 2(1)*)

**Personal health information (PHI) of an Individual** means health information of an individual and prescribed registration information and provider registry information in respect of an individual (*HIPMA*, ss. 2(1)).

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

## 2. Policy Statement

### 2.1. General

HSS must limit the amount of PHI used to the minimum amount reasonably necessary to achieve the purpose for the use (*HIPMA*, s. 16).

In a mixed record containing both personal information and personal health information, the personal information is deemed to be personal health information (*HIPMA*, s.10).

Consent must be (*HIPMA*, s.38):

- Knowledgeable;
- Related to the PHI, and
- Given voluntarily.

Consent must be given by the individual, unless the individual lacks capacity to give consent. Consent can be given by the individual's substitute decision maker (SDM). Refer to s. 46 of *HIPMA* for the hierarchy of who can act as an individual's SDM.

For approved uses of records that contain **only** Personal Information please refer to the *Access to Information and Protection of Privacy Act* and related policies.

### 2.2. Use with Consent (*HIPMA*, s.55)

HSS may use an individual's PHI, which is in the department's custody or control, **with** the individual's consent for:

- the purpose of providing healthcare to the individual, unless the individual has expressly refused or withdrawn their consent to that use, or
- for any other lawful purpose, if the individual consents to the use.

**NOTE:** While section 56 allows for the use of PHI without an individual's consent in the following situations, it has been determined that HSS will seek an individual's consent to use PHI:

- for the purpose of assembling a family or genetic history for an individual; and
- for the purpose of determining an individual's eligibility for a program of HSS, or to receive health care or related goods, services or benefits from HSS.

### **2.3. Use Not Requiring Consent (*HIPMA*, s.56)**

HSS may use an individual's PHI, which is in the Department's custody or control, **without** the individual's consent:

- if the PHI is available to the public e.g. publically available information for developing a personal history of clients to provide enhanced care (*HIPMA*, para. 56(1)(a));
- if a Yukon or Canadian law or treaty requires the use, e.g., *Child and Family Services Act* allows the Director use information within HSS to exercise their rights or perform their duties (*HIPMA*, para. 56(1)(b));
- for the purpose of preventing, reducing or assessing the risk of serious harm that HSS believes exists to the health and safety of any other individual, e.g. if an individual is diagnosed with reportable communicable disease that is reasonably believed to create a risk of serious harm to someone else, the care provider can use the PI/PHI to determine if others have been exposed (*HIPMA*, para. 56(1)(c));
- for the purpose of determining or carrying out the individual's wishes regarding organ, tissue, or bodily substance donation (*HIPMA*, para. 56(1)(e));
- if the individual is deceased or believed to be deceased for the purposes of
  - identifying the deceased, or
  - informing any person whom it is reasonable to inform that the individual is deceased or believed to be deceased.

(HIPMA, para. 56(1)(f))

- for the purpose of educating agents of HSS in respect to the provision of the healthcare (HIPMA, para. 56(1)(g));
- for the purpose of information management practices (including removing identifying information; managing information within approved retention and disposition schedules) (HIPMA, para. 56(1)(h));
- for the purpose of collecting payment owed to HSS in respect of HSS providing health care or other related goods, services or benefits to an individual (HIPMA, para. 56(1)(i));
- for the purpose of determining, assessing, or confirming capacity, if the determination, assessment or confirmation relates to the application of the *Health Information Privacy and Management Act*, the *Care Consent Act*, the *Access to Information and Protection of Privacy Act*, the *Adult Protection and Decision-Making Act*, the *Mental Health Act*, or the *Enduring Power of Attorney Act*, e.g., a health care provider in Continuing Care can use the information in a patient's chart to assess the capacity of a patient to make a decision about treatment (HIPMA, para. 56(1)(k));
- for the purpose of managing or auditing HSS healthcare activities. (HIPMA, para. 56(1)(l));
- for the purpose of carrying out quality improvement. Program areas are to use de-identified information where possible; otherwise (HIPMA, para. 56(1)(m));
- for the purpose of a legal proceeding or contemplated legal proceeding if HSS is a party or witness in the proceeding and the PHI is relevant to the proceeding (HIPMA, para. 56(1)(n));
- for the purpose of preventing, detecting, or investigating of a fraud or suspected fraud or abuse or the healthcare system (HIPMA, para. 56(1)(o));
- for the purpose of the placing an individual into custody or the detention or determining a release, conditional release, discharge or conditional release under Yukon, another province, or Canadian law e.g. HSS may review a file that contains PHI of an individual to

determine whether they need special accommodation/placement of based on individual needs (*HIPMA*, para. 56(1)(p));

- HSS may use an individual's contact information for the purpose of seeking the individual's consent under HIPMA (e.g. the department may seek an individual's consent to disclose their personal information for authorized research purposes) or may use their contact information for collecting a debt owed to the department (*HIPMA*, para. 56(2)(a) & (b));
- HSS may use PHI and PI to carry out its statutory obligations for purposes other than providing health care. e.g., Health Services can share PHI with Social Services to determine if an individual qualifies for a special allowance (*HIPMA*, para. 56(3)(a)), or
- for the planning and management of the health care system or operating the Yukon Health Information Network. (*HIPMA*, ss. 56(4) & (6)).

**VERSION:** 1

**DATE APPROVED:** August 31/16

**APPROVED BY:** \_\_\_\_\_

Bruce McLennan, Deputy Minister

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**CONTACT:** HSS Privacy Officer

**KEYWORDS:** Use

**RELATED REFERENCES:** *Health Information Privacy and Management Act*

**DATE TO BE REVIEWED:** September 30, 2017

**DATE AMENDED:**