

Section:	Agency Organizational Administration ~ General	Policy Code
Title:	CHILD AND YOUTH MENTAL HEALTH PRIVACY POLICY	

POLICY STATEMENT

The Agency is committed to the protection of personal health information of children, youth and families participating in child and youth mental health (CYMH) programs and services.

Approved on:	June 23, 2020	Last revised:	
Implementation Date:	June 23, 2020	Rationale:	

Governing Documents	Reference Section
Legislation	<i>Personal Health Information Protection Act – 2004 (PHIPA)</i> <i>CYFSA</i>
Regulations	
Standards	
Accreditation Standard	
Directives	
By-laws	

Purpose/Context <i>(for use when policy is not linked to a governing document)</i>

Supporting Documents	Document Link
Forms	Consent to Disclose Personal Health Information / Privacy Statement
Manuals	Appendix 1
Protocols	

Definitions:

Any reference to your information means your Information under the Agency's Children, Youth and Mental Health programs.

PROCEDURES

1) Collection of Information

- a) The Agency requests that service recipients provide information about their health and their family's health that is necessary in order to provide care and services.
- b) The Agency collects information from service recipients for the purpose of its main activities, which are: caring for clients, administration of the Agency and the health-care services it

provides, teaching, limited research, statistics and complying with legal and regulatory requirements.

- c) The Agency will either directly advise a service recipient why information is collected, will post a notice or provide the service recipient with information that describes why the information is collected.
- d) The Agency may collect information about service recipients directly from service recipients themselves, or indirectly (i.e. from other healthcare providers, family and/or friends). This collection of information will only occur if necessary to provide service recipients with optimal care and where consent of service recipient has been obtained and/or where the law permits.

2) **Use of Service Recipient Information**

- a) Client information is provided to NEOFACS for use in the provision of the best care possible to the service recipient.
- b) NEOFACS managers, employees, volunteers and students are trained and understand that client information is private and can only be used or accessed for clients to carry out NEOFACS's main activities.
- c) Personal Health Information is not collected, used or disclosed for other purposes except with consent as required by law.
- d) For contractors who provide services to the Agency (i.e. fixing equipment, maintaining computers, cleaning, etc.) and may have access to client information, the Agency takes steps to ensure the information is kept private and confidential.
- e) Unless the Agency has client consent to use his/her information for the purpose of research, information will only be used for research in the strict process (ensuring both privacy and ethical conduct) of PHIPA is followed.
- f) If the Agency uses client information for any purpose other than its main activities, client permission will be required.

3) **Disclosure of Client Information**

- a) The Agency will disclose client information to other healthcare providers in the "Circle of Care" who need to know the information in order to provide or help to provide the client with care. The "Circle of Care" includes healthcare professionals, hospitals, pharmacies, laboratories, ambulance service, nursing homes, Community Care Access Centres, home and community service providers who provide clients with healthcare services.
- b) At times the law requires the Agency to disclose information regarding service recipients. NEOFACS will only disclose client information when the law requires or permits NEOFACS to do so.
- c) Anonymized client data may be provided to the Ministry, sponsor of the services, for the purpose of evaluating services metrics.

4) Obtaining Client Consent

- a) Service recipients may provide their consent to the Agency for the collection, use or disclosure of information. This consent may be implied or expressed.
- b) In the following circumstances NEOFACS will always ask for a service recipient's expressed (written) consent:
 - i) where NEOFACS is disposing information to someone who is not a healthcare information custodian (HIC) (Child Protection Services, Youth Justice Services, etc.); and
 - ii) where NEOFACS is disclosing information to someone who is a health information custodian (HIC) but for purposes other than providing client healthcare.
- c) When the Agency obtains an implied consent from a service recipient, the service recipient will be provided with a notice (either posted in a place where clients will see it or directly provided to them) and an opportunity to withhold their consent.
- d) Clients may withdraw or limit their consent at any time, unless doing so prevents NEOFACS from recording the information it requires from the client by law or as directed according to professional standards. Clients can provide an expressed (written) instruction that specific information not be used or disclosed.
- e) Consent will be obtained directly from clients if they are capable of giving consent; otherwise, consent will be obtained from a substitute decision maker who represents the service recipient.
- f) An individual is capable of giving consent if he or she is able to understand the information that is relevant to deciding to consent to the collection, use or disclosure of personal health information. Further, the individual is able to appreciate reasonable and foreseeable consequences of giving, withholding or withdrawing consent. Where the individual is under the age of 16, his or her parent or guardian may also give consent on the child's behalf. This does not apply where the information relates to the treatment for which the child has made his or her own decision regarding treatment in accordance with the Health Care Consent Act, or counseling where the child has agreed to participate under the Child, Youth and Family Services Act.
- g) NEOFACS may collect, use or disclose client information without client consent in limited instances. These instances are expressly permitted by PHIPA (i.e. Child, Youth and Family Services Act, Coroners Act.)

5) Retention and Disposal of Client Information

- a) NEOFACS retains client information with the Agency or in premises controlled by the Agency in a secure manner and retain it for as long as necessary to fulfill the purposes for which it was collected, or as required by law.

- b) NEOFACS has policies which addresses the retention and destruction of records specific to services/programs. These policies set out minimum and maximum retention periods and comply with applicable laws governing retention of service recipient information.
- c) Where a client requests access to a records of their personal health information, NEOFACS will maintain a records of the client's request until such time as the request has been fulfilled.

6) **Accuracy of Client Information**

- a) NEOFACS takes reasonable steps to ensure client personal information is accurate, complete and up-to-date at the time of obtaining the information. NEOFACS does not routinely update information in its control unless routine updates are necessary to fulfill the purposes for which the information is collected.
- b) NEOFACS takes reasonable steps to ensure that any information used by Agency personnel on an ongoing basis, including information that is routinely disclosed to others under this policy, is accurate, complete and up-to-date. Where NEOFACS learns that information is not accurate, complete or up-to-date, a notation is made to this effect at the time of use or disclosure of the information.

7) **Security of Client Information**

- a) Security safeguards are in place to protect the service recipient's information that is in the custody or control of the Agency and electronic information management system. These security safeguards are in keeping with industry standards and are designed to protect client personal information against loss or theft as well as unauthorized access, disclosure, copying, use or modification.
- b) The steps taken by NEOFACS to protect client personal information include:
 - i) secured premises, with locked filing cabinets and locked briefcases and the expressed expectation that filing cabinets/briefcases are locked when offices are unattended and where cabinets/briefcases are located in publicly accessible areas;
 - ii) restricted access to electronically stored information;
 - iii) use of technological safeguards including security software and firewalls to prevent hacking or unauthorized computer access; and
 - iv) internal password use and security policies developed and implemented through the Agency.
- c) NEOFACS employees are aware of the importance of keeping client information confidential. As a condition of employment or obtaining/maintaining privileges, all NEOFACS employees are required to sign a Confidentiality Agreement with the Employer.

- d) The NEOFACS Privacy Officer, under CYMH, promptly notifies the sponsor agency Privacy Officer, the appropriate Agency staff and the client if client information is lost, stolen or subject to unauthorised access, disclosure, copying, use or modification.

8) **Client Access to Their Information**

- a) Clients can request access to their records/information within the Agency's custody or control by contacting their assigned worker. The assigned worker forwards a copy of the request to their respective Program Supervisor and the Agency's Privacy Officer.
- b) A service recipient's access to their information is not absolute. Access is denied when:
 - i) denial of access is required or authorized by law; or
 - ii) where the request is frivolous, vexatious or in bad faith.
- c) If a Program Supervisor refuses the client access to their records, a reason/rationale is provided to the service recipient, and clients are also notified of their right to submit a complaint to the Agency's Privacy Officer. If the matter is not resolved between the service recipient and the Agency's Privacy Officer, the client is notified of their right to submit a complaint to the Information Privacy Commissioner of Ontario.
- d) Clients are also entitled to request that information in the Agency's custody or control be corrected if they believe the information is incomplete or inaccurate. Requests to correct information must be directed to the assigned worker. The request will be documented and forwarded to the Program Supervisor for their review and approval. Clients receive at a minimum a preliminary response from a Program Supervisor within 30 days, and a full response within 60 days.

9) **Challenging Compliance**

- a) NEOFACS recognizes that service recipients may have questions or concerns regarding the collection, use, security and disclosure of their personal information. The Agency has appointed a Privacy Officer to ensure the Agency's compliance with the PHIPA laws of Ontario as well as with Professional Regulations and Ethical Standards. The Agency's Privacy Officer can provide further information about the Agency's practices, and its management of service recipient complaints regarding the privacy of their personal health information.
- b) Clients are entitled to challenge NEOFACS' compliance with the principles set out in this policy. Any challenge should be directed in writing to the Agency's Privacy Officer. A copy is sent to the respective NEOFACS' Program Supervisor.
- c) Anyone who submits a written complaint, challenge or inquiry to the Agency's Privacy Officer is given a written copy of the Agency's procedures governing such complaints, challenges and inquiries.
- d) The Agency investigates all complaints received. If a complaint is determined to have merit, the Agency takes appropriate measures to address the complaint, including amending policies and practices relating to the management of client information.

10) Compliance with this Policy

- a) All agents of the Agency (employees, volunteers, students, and professional contracted staff) are required to understand and comply with this policy. Confirmation of understanding with and adherence to, this policy is required annually. Any breach of this policy may result in significant disciplinary action including:
 - i) for employees, students and volunteers: suspension, demotion and termination; and
 - ii) for professional staff members (consultants, psychologists, etc.), restriction or revocation of privileges, in whole or in part, suspension and termination.
- b) Agents of the Agency may only use client information as permitted by NEOFACS and within the same legal limitations imposed on the Agency. All employees of the Agency must promptly notify their respective Service Manager if client information is lost, stolen or accessed without authorization. NEOFACS' Service Manager must also advise the Agency Privacy Officer of such instances.

11) Privacy Officer

- a) The Executive Director is ultimately responsible for ensuring accountability and compliance with this policy. The Executive Director appoints a member of the Agency's staff to act as the Agency's Privacy Officer(s). The CYMH Privacy Officer reports directly to the Director of Corporate Services. The Privacy Officer may delegate to others the day-to-day supervision of the collection, use and disclosure of information.

DOCUMENT APPROVALS

POLICY	
Approval Date:	June 23, 2020
Implementation Date:	June 23, 2020
PROCEDURES	
Approval Date:	November 29, 2012
Implementation Date:	November 29, 2012

REVISION HISTORY

POLICY OR PROCEDURE	DATE	REASON/RATIONALE	DESCRIPTION OF CHANGE

ARCHIVAL INFORMATION

Date:	
Reason/Rationale:	

DEFINITIONS

PHIPA	<i><u>P</u>ersonal <u>H</u>ealth <u>I</u>nformation <u>P</u>rotection Act, 2004 (Ontario)</i>
PHI	<i><u>P</u>ersonal <u>H</u>ealth <u>I</u>nformation Information, oral or recorded, about an individual that does or could identify that individual and that:</i> <ol style="list-style-type: none"> i. relates to physical or mental health; ii. includes family history as it is reflected in record or PHI; iii. identifies the healthcare provider; iv. relates to payments or eligibility for healthcare; v. relates to donation of body part or bodily substance; vi. includes the health number (replaces Health Cards and Numbers Control Act); vii. identifies SDM; and viii. includes any non-health information that is in record that is identifying.
Agent	<i>Anyone authorized by the Agency and the Client Information Management Systems group to collect, use or disclose Personal health Information on behalf of the Agency and not for the agent's own purposes; (i.e. employees; persons contracted to provide services who have access to Personal Health Information [records management, copying or shredding records]; health professionals with privileges; volunteers; managers; students.)</i>
Circle of Care	<i>Those Health Information Custodians indicated under the definition of HIC with an asterisk (*HIC), for the purpose of providing healthcare or assisting in providing healthcare within the continuum of care.</i>
HIC (Health Information Custodian) includes:	<ol style="list-style-type: none"> i. <i>healthcare practitioners:</i> ii. <ol style="list-style-type: none"> a) <i>regulated health professionals; registered drugless practitioners; social worker; person whose primary function is to provide healthcare (acupuncturist, psychotherapy); and</i> b) <i>not</i> <i>aboriginal healers; aboriginal midwives; faith healer</i> iii. <i>service providers to CCAC;</i> iv. <i>public, private, or mental hospitals;</i> v. <i>psychiatric facilities under the Mental Health Act;</i> vi. <i>independent health facilities;</i> vii. <i>homes for aged, nursing homes;</i> viii. <i>pharmacies</i> ix. <i>laboratories</i> x. <i>ambulance</i> xi. <i>community health or mental health centres whose primary purpose is providing healthcare; and</i> xii. <i>evaluators under the Health Care Consent Act or assessors under the Substitute Decisions Act (capacity).</i>
IPC	<i><u>I</u>nformation and <u>P</u>rivacy <u>C</u>ommissioner of Ontario</i>
Privacy Officer	<i>As identified in this policy</i>
SDM	<i><u>S</u>ubstitute <u>D</u>ecision <u>M</u>aker</i>



PHIPA POLICY AND PROCEDURES DECLARATION

Name: _____

I have read and understand the contents of the PHIPA Policy and Procedures. I will comply with the procedures set out in this policy and understand that failure to do so might result in disciplinary action.

Signature

Date

DISTRIBUTION	
Original	HR: Personnel File
Copy	Nil