

## **BACKGROUND**

In anticipation of Ontario health privacy legislation, Chatham-Kent Health Alliance (CKHA) intends to self-regulate, to the fullest extent possible, on the basis of the Canadian Standards Association (CSA) Model.

## **POLICY**

### **Principle 1 - Accountability for Personal Information**

CKHA is responsible for personal information under its control and will designate an individual(s) who will be accountable for its compliance with the following principles.

- 1.1 Accountability for CKHA's compliance with the principles rests with the designated individual(s), even though other individuals within the Hospital may be responsible for the day-to-day collection and processing of personal information. In addition, other individuals within CKHA may be delegated to act on behalf of the designated individual(s).
- 1.2 The identity of the individual(s) designated by CKHA to oversee its compliance with the principles will be made known.
- 1.3 CKHA is responsible for personal information in its possession or custody, including information that has been transferred to a third party for processing. It will use contractual or other means to provide a comparable level of protection while the information is being processed by a third party.
- 1.4 CKHA will implement policies and practices to give effect to the principles, including
  - Implementing procedures to protect personal information;
  - Establishing procedures to receive and respond to complaints and inquiries;
  - Training staff, and communicating to staff, information with respect to CKHA's policies and practices; and
  - Developing information to explain its policies and procedures.

### **Principle 2 - Identifying Purposes for Collecting Personal Information**

CKHA will identify the purposes for which personal information is collected at or before the time the information is collected.

- 2.1 CKHA collects personal information for the purposes of:
  - Direct patient care;
  - Administration and management of the health care system;
  - Research, teaching, and statistics;
  - Complying with legal and regulatory requirements.
  - Hospital Fundraising
- 2.2 Identifying the purposes for which personal information is collected at or before the time of collection allows CKHA to determine the information it needs to collect to fulfill these purposes. The Limiting Collection principle (Clause 4) requires an organization to collect only that information necessary for the purposes that have been identified.
- 2.3 CKHA will specify the identified purposes at or before the time of collection to the individual from whom the personal information is collected. Depending upon the way in which the information is

collected, this can be done orally or in writing. An admission or appointment form, for example, may give notice of the purposes.

- 2.4 When personal information that has been collected is to be used for a purpose not previously identified, the new purpose will be identified prior to use. Unless law requires the new purpose, the consent of the individual is required before information can be used for that purpose.
- 2.5 Persons collecting personal information will be able to explain to individuals the purposes for which the information is being collected.

### **Principle 3 - Consent for Collection, Use, and Disclosure of Personal Information**

The knowledge and consent of the individual are required for the collection, use, or disclosure of personal information, except where inappropriate.

*[Note: In certain circumstances personal information can be collected, used, or disclosed without the knowledge and consent of the individual. For example, legal, medical, or security reasons may make it impossible or impractical to seek consent. When information is being collected for the detection and prevention of fraud or for law enforcement, seeking the consent of the individual might defeat the purpose of collecting the information. Seeking consent may be impossible or inappropriate when the individual is a minor, seriously ill, or mentally incapacitated. In addition, organizations that do not have a direct relationship with the individual may not always be able to seek consent.]*

- 3.1 Consent is required for the collection of personal information and the subsequent use or disclosure of this information. Typically, CKHA will seek consent for the use or disclosure of the information at the time of collection. In certain circumstances, consent with respect to use or disclosure may be sought after the information has been collected but before use (e.g. when a hospital wants to use information for a purpose not previously identified).
- 3.2 The principle requires "knowledge and consent." CKHA will make a reasonable effort to ensure the individual is advised of the purposes for which the information will be used. To make the consent meaningful, the purposes must be stated in such a manner that the individual can reasonably understand how the information will be used or disclosed.
- 3.3 CKHA will not, as a condition of the supply of a service, require an individual to consent to the collection, use, or disclosure of information beyond that required to fulfill the explicitly specified and legitimate purposes.
- 3.4 The form of the consent sought by CKHA may vary, depending upon the circumstances and the type of information. In determining the form of consent to use, organizations will take into account the sensitivity of the information. Although some information (e.g. medical records and income records) is almost always considered to be sensitive, any information can be sensitive, depending on the context.
- 3.5 In obtaining consent, the reasonable expectations of the individual are also relevant. For example, an individual coming to the hospital for tests will reasonably expect CKHA, in addition to using the individual's personal information for treatment purposes, would also contact the referring physician to report results or place the individual on a waiting list. In this case, CKHA can assume the individual's request for services constitutes consent for specific, related purposes. On the other hand, an individual would not reasonably expect personal information given to the hospital to be given to a company selling healthcare products, unless consent were obtained.
- 3.6 The way in which CKHA seeks consent may vary, depending on the circumstances and type of information collected. CKHA will generally seek express consent when the information is likely to be considered sensitive. Implied consent would generally be appropriate when the information is less sensitive. An authorized representative, such as a legal guardian or a person having power of attorney, can also give consent.

- 3.7 Individuals can give consent in many ways. For example:
- An admission or appointment form may be used to seek consent, collect information, and inform the individual of the use that will be made of the information. By completing and signing the form, the individual is giving consent to the collection and the specified uses;
  - Consent may be given orally when information is collected over the telephone; or
  - Consent may be given at the time individuals receive a service or treatment.
- 3.8 An individual may withdraw consent at any time, subject to legal or contractual restrictions and reasonable notice. CKHA will inform the individual of the implications of such withdrawal.

#### **Principle 4 - Limiting Collection of Personal Information**

CKHA will limit the collection of personal information to that which is necessary for the purposes identified. Information will be collected by fair and lawful means.

- 4.1 CKHA will not collect personal information indiscriminately. Both the amount and the type of information collected will be limited to that which is necessary to fulfill the purposes identified. Organizations will specify the type of information collected as part of their information-handling policies and practices, in accordance with the Openness principle (Clause 8).
- 4.2 The requirement that personal information be collected by fair and lawful means is intended to prevent organizations from collecting information by misleading or deceiving individuals about the purpose for which information is being collected. This requirement implies consent with respect to collection must not be obtained through deception.

#### **Principle 5 - Limiting Use, Disclosure, and Retention of Personal Information**

Personal information will not be used or disclosed for purposes other than those for which it was collected, except with the consent of the individual or as required by law. Personal information will be retained only as long as necessary for the fulfillment of those purposes.

- 5.1 Organizations using personal information for a new purpose will document this purpose (see Clause 2.1).
- 5.2 CKHA will develop guidelines and implement procedures with respect to the retention of personal information. These guidelines will include minimum and maximum retention periods. Personal information that has been used to make a decision about an individual will be retained long enough to allow the individual access to the information after the decision has been made. CKHA may be subject to legislative requirements with respect to retention periods.
- 5.3 Personal information that is no longer required to fulfill the identified purposes will be destroyed, erased, or made anonymous. CKHA will develop guidelines and implement procedures to govern the destruction of personal information.

#### **Principle 6 - Accuracy of Personal Information**

Personal information will be as accurate, complete, and up-to-date as is necessary for the purposes for which it is to be used.

- 6.1 The extent to which personal information will be accurate, complete, and up-to-date will depend upon the use of the information, taking into account the interests of the individual. Information will be sufficiently accurate, complete, and up-to-date to minimize the possibility that inappropriate information may be used to make a decision about the individual.
- 6.2 CKHA will not routinely update personal information, unless such a process is necessary to fulfill the purposes for which the information was collected.

- 6.3 Personal information that is used on an ongoing basis, including information disclosed to third parties, will generally be accurate and up-to-date, unless limits to the requirement for accuracy are clearly set out.

#### **Principle 7 - Safeguards for Personal Information**

Security safeguards appropriate to the sensitivity of the information will protect personal information.

- 7.1 The security safeguards will protect personal information against loss or theft, as well as unauthorized access, disclosure, copying, use, or modification. CKHA will protect personal information regardless of the format in which it is held.
- 7.2 The nature of the safeguards will vary depending on the sensitivity of the information that has been collected, the amount, distribution, and format of the information, and the method of storage. A higher level of protection will safeguard more sensitive information.
- 7.3 The methods of protection will include:
- Physical measures (e.g. locked filing cabinets, restricted access to offices);
  - Organizational measures (e.g. confidentiality agreements, limiting access on a "need-to-know" basis); and
  - Technological measures (e.g. use of passwords and access controls).
- 7.4 CKHA will make its employees aware of the importance of maintaining the confidentiality of personal information.
- 7.5 Care will be used in the disposal or destruction of personal information, to prevent unauthorized parties from gaining access to the information (see Clause 5.3).

#### **Principle 8 - Openness about Privacy Policy**

CKHA will make readily available to individuals specific information about its policies and practices relating to the management of personal information.

- 8.1 CKHA will be open about its policies and practices with respect to the management of personal information. Individuals will be able to acquire information about its policies and practices without unreasonable effort. This information will be made available in a form that is generally understandable.
- 8.2 The information made available will include:
- Name or title, and address, of the person who is accountable for CKHA's policies and practices and to whom complaints or inquiries can be forwarded;
  - Means of gaining access to personal information held by the Hospital;
  - Description of the types of personal information held by the Hospital, including a general account of its use;
  - Copy of any brochures or other information that explain the Hospital's policies, standards, or codes; and
  - What personal information is made available to related organizations (e.g. Foundation).
- 8.3 CKHA may make information on its policies and practices available in a variety of ways. For example, it may choose to make brochures available in high traffic patient areas (e.g. Emergency Department), mail information to its patients, provide online access, or establish a toll-free telephone number.

#### **Principle 9 - Individual Access to Personal Information**

Upon request, an individual will be informed of the existence, use, and disclosure of his or her personal information and will be given access to that information. An individual will be able to challenge the accuracy and completeness of the information and have it amended as appropriate.

*[Note: In certain situations, CKHA may not be able to provide access to all the personal information it holds about an individual. Exceptions to the access requirement will be limited and specific. The reasons for denying access will be provided to the individual upon request. Exceptions may include information that is prohibitively costly to provide, information that contains references to other individuals, information that cannot be disclosed for legal, security, or commercial proprietary reasons, and information that is subject to solicitor-client or litigation privilege.]*

- 9.1 Upon request, CKHA will inform an individual whether or not it holds personal information about the individual. It is encouraged to indicate the source of this information. The Hospital will allow the individual access to this information. However, it may choose to make sensitive medical information available through a medical practitioner. In addition, the Hospital will provide an account of the use that has been made or is being made of this information and an account of the third parties to which it has been disclosed.
- 9.2 An individual may be required to provide sufficient information to permit CKHA to provide an account of the existence, use, and disclosure of personal information. The information provided will only be used for this purpose.
- 9.3 In providing an account of third parties to which it has disclosed personal information about an individual, CKHA will attempt to be as specific as possible. When it is not possible to provide a list of organizations to which it has actually disclosed information about an individual, the Hospital will provide a list of organizations to which it may have disclosed information about the individual.
- 9.4 CKHA will respond to an individual's request within a reasonable time and at minimal or no cost to the individual. The requested information will be provided or made available in a form that is generally understandable (e.g. if abbreviations or codes are used, an explanation will be provided).
- 9.5 When an individual successfully demonstrates the inaccuracy or incompleteness of personal information, CKHA will amend the information as required. Depending upon the nature of the information challenged, amendment involves the correction, deletion, or addition of information. Where appropriate, the amended information will be transmitted to third parties having access to the information in question.
- 9.6 When a challenge is not resolved to the satisfaction of the individual, CKHA will record the substance of the unresolved challenge. When appropriate, the existence of the unresolved challenge will be transmitted to third parties having access to the information in question.

#### **Principle 10 - Challenging Compliance with the Privacy Policy**

An individual will be able to address a challenge concerning compliance with the above principles to the designated individual or individuals accountable for CKHA's compliance.

- 10.1 The individual accountable for CKHA's compliance is discussed in Clause 1.1.
- 10.2 CKHA will put procedures in place to receive and respond to complaints or inquiries about their policies and practices relating to the handling of personal information. The complaint procedures will be easily accessible and simple to use.
- 10.3 CKHA will inform individuals who make inquiries or lodge complaints of the existence of relevant complaint procedures. A range of these procedures may exist.
- 10.4 CKHA will investigate all complaints. If a complaint is found to be justified, the Hospital will take appropriate measures, including, if necessary, amending its policies and practices.