

Privacy and Security of Personal Health Information

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The Sunnybrook Intranet document is considered the most current.

Please ensure that you have reviewed all linked documents and other referenced materials within this page.

POLICY STATEMENT:

It is a Sunnybrook Health Sciences Centre (Sunnybrook) Policy to ensure that all transactions involving the use of personally identifiable patient information respect the privacy rights of individuals. Personal Health Information will be collected, used and stored in a confidential and secure manner, while being made available to authorized users for patient care, administration, education, research and other authorized purposes.

DEFINITION(S):

For the purposes of this policy:

- The terms “medical record”, “patient record”, “health record”, “hospital record”, “record”, and “hospital file” will refer to the “medical record” as described under Section 19(4) of the Hospital Management Regulation enacted under the Public Hospitals Act (RSO, 1990 Reg. 965) and as set out in the Sunnybrook Corporate policies related to [Medical Records and Chart Completion](#), [Access to and Disclosure of Personal Health Information](#) and other policies; “record” also means a record of information in any form or in any medium, whether in written, printed, photographic or electronic form or otherwise;
- "personal health information", (PHI) means identifying information about an individual in oral or recorded form, if the information,
 1. relates to the physical or mental health of the individual, including information that consists of the health history of the individual's family,
 2. relates to the providing of health care to the individual,
 3. is a plan of service within the meaning of the *Long-Term Care Act, 1994* for the individual,
 4. relates to payments or eligibility for health care in respect of the individual,
 5. relates to the donation by the individual of any body part or bodily substance of the individual or is derived from the testing or examination of any such body part or bodily substance,
 6. is the individual's health number, or
 7. identifies a provider of health care to the individual or a substitute decision-maker of the individual
- The term “identifying information” means information that identifies an individual or for which there is a reasonable basis to believe that it could be used, either alone or with other information, to identify an

- individual. Such information as name, address, hospital file number, health insurance number, account number, telephone number, and certain physiological information including genetic information, medical condition, blood type or similar information types would be common examples of 'identifying information'.
- The term 'health information custodian' means a person or organization who has custody or control of personal health information as a result of or in connection with performing his/her duties. A health information custodian may be: a health care practitioner; a person who operates a Public Hospital, Mental Health facility, Nursing Home or other defined facility; a Medical Officer of health, the Minister or other defined persons.
 - The term "agent", in relation to a health information custodian, means a person that, with the authorization of the custodian, acts for or on behalf of the custodian in respect of personal health information for the purposes of the custodian, and not the agent's own purposes, whether or not the agent has the authority to bind the custodian, is employed by the custodian and whether or not the agent is being remunerated, and includes employees, medical staff, students, volunteers, members, officers, directors, researchers, instructors, agents, vendors, contractors, consultants.
 - A health care practitioner who is an agent of Sunnybrook must comply with and is subject to this policy when acting in his/her/its capacity as an agent, regardless of whether he/she/it has its own policy except as otherwise agreed between S&W and the agent.
 - The term "collection" or to "collect" in relation to personal health information, means to gather, acquire, receive or obtain the information by any means from any source.
 - The term "purpose" or "purpose for collection" will refer to the reasons given for the collection of personal information and will be directly related to their reasonably foreseeable use.
 - The term "use", in relation to personal health information in the custody or under the control of a health information custodian or a person, means to handle or deal with the information, but does not include disclosure of the information. A transfer of personal health information between a health information custodian and an *agent* of the custodian is a use by both persons, and not a disclosure by the person making the transfer or a collection by the person receiving the transfer.
 - The term "disclosure" or "disclose", in relation to personal health information in the custody or under the control of a health information custodian or a person, means to make the information available or to release it to another health information custodian or to another person, but does not include use of the information in the meaning set out above in the definition of "use". Disclosures of patient information by Sunnybrook will generally be governed by applicable legislation and Sunnybrook's [Access to and Disclosure of Personal Health Information](#) unless otherwise indicated in this policy.
 - PHIPA means the Personal Health Information Protection Act 2004 (Ontario)
 - "Sunnybrook" includes all corporate entities that comprise Sunnybrook Health Sciences Centre and its officers, directors, employees, agents, vendors, contractors, volunteers, instructors, consultants, researchers, students and professionals with privileges and related corporate entities, but does not include separate legal entities with whom Sunnybrook is merely affiliated, such as the University of Toronto.
 - "Capacity" or "capable" refers to the ability of a person to consent to the collection, use or disclosure of personal health information and a person is "capable" or "has capacity" when he or she is able to understand the information that is relevant to deciding whether to consent to a collection, use or disclosure and to appreciate the reasonably foreseeable consequences of giving, not giving, withholding or withdrawing consent.
 - "CAS" includes any children's aid society
 - "Board" means a Consent and Capacity Board constituted under the *Health Care Consent Act, 1996*
 - "health care" means any observation, examination, assessment, care, services or procedure that is done for health-related purposes and that is carried out or provided to:
 1. diagnose, treat or maintain an individual's physical or mental condition;
 2. to prevent disease or injury or to promote health; or
 3. as part of palliative care, and includes the compounding or selling of a drug, service, equipment or any

other item to an individual or for the use of an individual pursuant to a prescription or a community service provided by a service provider under the *Long Term Care Act, 1994*.

APPLICATION:

This policy applies to all Sunnybrook Health Sciences Centre (“Sunnybrook”) employees, medical staff, students, volunteers, members, officers, directors, researchers, instructors, agents, vendors, contractors, consultants and related entities including such Foundations, Research Institutions and others, whether individual or corporate, (each of which may individually be a “health information custodian within Sunnybrook” and collectively, will be included within the meaning of the term “Sunnybrook” and who, on behalf of or for the purposes or benefit of Sunnybrook, collect, use, disclose or has access to personal health information, as defined below, which is in the custody or control of Sunnybrook.

BACKGROUND:

This policy is intended to integrate with existing hospital regulation, policy, procedures and practices related to the collection, use and disclosure of personal health information and to guide Sunnybrook's approach to the assurance of an individual's privacy rights and the confidentiality of personal health information in the course of fulfilling our duties as a health information custodian.

In an effort to comply with emerging federal and provincial standards for personal privacy protection, and in support of our ongoing effort to operate within generally accepted norms for personal information handling, Sunnybrook recognizes the ten principles of fair information practices contained in the CSA Model Code for Personal Information

(1996) and their adoption in the federal Personal Information Protection and Electronic Documents Act, 2001 (PIPEDA). Sunnybrook also recognizes its duty to comply with the Ontario Personal Health Information Protection Act, 2004 (“PHIPA”). These principles will guide Sunnybrook's approach to the management of personal information subject to other applicable legislation, healthcare industry regulation, healthcare best practices and pre-existing Sunnybrook policies and procedures. These principles and statutory obligations, together with healthcare best practices and pre-existing Sunnybrook policies and procedures, other applicable legislation and regulation, will guide Sunnybrook's management of personal health information.

The following sections establish Sunnybrook's intent with respect to privacy accountability and our commitment to appropriate collection, use, disclosure and access to personal health information as embodied in these principles and laws, and incorporates by reference the relevant Sunnybrook policy and procedures pertaining to the handling of personal information where applicable.

POLICY:

1.0 Accountability for Personal Information

Sunnybrook is a health information custodian responsible for the collection, use and disclosure of personal health information in its custody or control. Sunnybrook is obliged to have information practices in place that comply with PHIPA. Sunnybrook has designated a **Chief Privacy Officer (CPO)** as the contact person who is accountable for Sunnybrook's compliance with this Policy.

1.1 Accountability: Accountability for Sunnybrook's compliance with this policy and with PHIPA rests

with the CPO, even though other individuals within Sunnybrook may be responsible for the day-to-day collection and processing of personal information. Every agent acting for, on behalf of, or for the benefit of, Sunnybrook must comply with this Policy.

1.2 Responsibilities: The CPO is an agent of Sunnybrook and is authorized on behalf of the hospital to,

- a. facilitate the hospital's compliance with this policy and with PHIPA generally;
- b. ensure that all agents of the hospital are appropriately informed of their duties under this policy and with PHIPA generally;
- c. respond to inquiries from the public about the hospital's information practices;
- d. respond to requests of an individual for access to or correction of a record of personal health information about the individual that is in the custody or under the control of the hospital; and
- e. receive and respond to complaints from the public about the hospital's alleged contravention of this policy and with PHIPA generally or its regulations.

1.3 Public Record of Contact Person: The identity of the CPO and the individual(s) designated by Sunnybrook to oversee compliance with this policy and with PHIPA generally will be made known as a matter of public record, in a written statement as detailed in [section 8.0](#), below. The CPO can be contacted via telephone at (416) 480-6100, or via email at privacy@sw.ca, or via mail by writing to Sunnybrook Health Sciences Centre, 2075 Bayview Avenue, Toronto Ontario M4N 3M5.

1.4 Openness: Sunnybrook will be open about its information practices with respect to the management of personal health information. Individuals will be able to acquire information about Sunnybrook policies and practices without unreasonable effort. This information will be made available in a form that is generally understandable.

1.5 [Description of Information Practices](#): A written statement will be made available to the public that:

- a. provides a general description of Sunnybrook's information practices
- b. describes how to contact the contact person
- c. describes how an individual may obtain access to or request correction of a record of PHI about the individual that is in the custody or control of the custodian; and
- d. describes how to make a complaint to Sunnybrook and to the Information Privacy Commissioner.
- e. If Sunnybrook uses and discloses PHI without consent in a manner that is outside the scope of this description, Sunnybrook shall:
- f. inform the individual at the first available opportunity unless the individual does not have a right of access under PHIPA; and
- g. keep a note of the uses and disclosures as part of the record

1.6 Third Party Confidentiality Contracts: Sunnybrook is responsible for personal health information in its custody or control, including information that has been disclosed under contract and will use contractual or other means to ensure a comparable level of privacy protection while the information is being used or otherwise processed by any third party including, where appropriate, agents of the hospital.

1.7 Duration of Custodial Duty: Sunnybrook does not cease to be a health information custodian with respect to a record of personal health information until complete custody and control of the whole record passes to another health information custodian.

2.0 Identifying Purposes for the Collection of Personal Information

Sunnybrook will identify the purposes for which personal information is collected at or before the time the information is collected. Personal health information will not be used for purposes other than those for which it was collected, except with the express consent of the individual or as permitted or authorized by law.

2.1 Limited Collection: The Limiting Collection Principle ([section 4.0 of this policy](#)) requires the hospital to collect only that information necessary for the purposes that have been identified or which are reasonably foreseeable under the circumstances at the time of collection. Identifying the purposes for which personal information is collected should allow Sunnybrook to determine the information necessary to fulfill these purposes and any information subsequently collected should be consistent with the purposes identified at the time of the original collection, or with such new or additional purposes, as are identified at the time of the subsequent collection.

2.2 Notification of Purposes for Collection: Unless it is not reasonable in the circumstances, it is reasonable to believe that an individual knows the purposes of the collection, use or disclosure of personal health information about the individual by the hospital if Sunnybrook has posted a notice describing the purposes where it is likely to come to the individual's attention or provides the individual with such a notice.

2.3 Subsequent Notification: where Sunnybrook uses or discloses for a purpose outside those described in the notice, it shall notify the individual in accordance with [section 1.5](#) above.

2.4 Authorized purposes: Sunnybrook collects, uses and discloses personal information for the purposes of:

- Providing health care or assisting in providing health care to the individual;
- Planning or delivering patient care programs or services funded by Sunnybrook;
- Evaluating, monitoring and allocating resources to these programs and services;
- Risk management or activities to improve quality of care or quality of any related program or service;
- Processing, monitoring, verifying or reimbursing claims for payment under any Act;
- Research, as approved by a Research Ethics Board;
- Marketing, but only with express consent;
- Anonymizing or de-identifying the information;
- Teaching and education;
- Fundraising;
- Providing the individual's name, religious or other organizational affiliation and location in the facility to a representative of the religious or other organization;
- As otherwise consented to by the individual; and
- As otherwise permitted, authorized or required by law.

2.5 Timeliness of identification: Wherever possible, Sunnybrook will specify the identified purposes at or before the time of collection to the individual from whom the personal information is collected. Patient

care, however, will not be delayed in the instance when a patient is not mentally or physically capable of receiving the information about the purposes. Depending on the way in which the personal health information is collected, the purposes can be communicated orally or in writing. For example, in elective cases, an admission or appointment form may give notice of the purposes. Alternatively, notice of the purposes may be provided in the form of a poster or brochure, located in a place where it is likely to come to the individual's attention or given to the individual.

2.6 Identification of New Purposes Prior to Use: When personal information that has been collected is to be used for a purpose not previously identified to the individual, the new purpose will be generally identified prior to use. Unless the new purpose is otherwise permitted or authorized by law, the consent of the individual will generally be obtained before their information can be used for the new purpose. In circumstances where obtaining prior consent is impractical the individual may be notified at the first reasonable opportunity, except as permitted or required by law, and a note of the new use or disclosure will be kept in the record.

2.7 Clarity: Upon request, Sunnybrook agents will be able to explain to individuals the purposes for which the information is being collected. This information may be provided in writing or orally (or both, depending on the circumstances), in a language known to the patient or substitute decision maker.

3.0 Consent for the Collection, Use, and Disclosure of Personal Information

The knowledge and consent of the individual, or person authorized to consent on behalf of the individual, are generally required for the collection, use or disclosure of personal health information, except where otherwise required by law. Generally, consent may be express or implied

Sunnybrook maintains extensive policy governing consent through the [Consent to Treatment](#) and [Access to and Disclosure of Personal Health Information](#) policies which are incorporated into this policy by reference, and which should be consulted for specific instances of Sunnybrook obligations regarding the obtaining of patient consent for the use or disclosure of their personal information during and after the regular course of patient care.

3.1 Direct vs. Indirect Collection of Personal Health Information: Sunnybrook will endeavor to collect all personal health information about an individual directly from the individual except as otherwise consented to by the individual, or as permitted or required by law. Where the information to be collected is necessary for providing patient care and it is not reasonably possible to collect directly from the individual in an accurate or timely fashion, Sunnybrook will collect the information from another person or entity permitted to disclose the information.

3.2 Elements of Consent: Where consent to the collection, use or disclosure of personal health information is required, the consent shall be:

3.2.1 Consent of the Individual: An individual who is assumed to be capable of giving consent to the collection, use or disclosure of personal health information may give consent or authorize a person to act on his or her behalf. Sunnybrook generally presumes that an individual is capable of consenting to the collection, use or disclosure of personal health information unless it has reasonable grounds to believe otherwise. Capable individuals may give, withhold or withdraw consent. A substitute decision maker or other authorized individual may provide consent on behalf of the patient, as permitted by law [**see also section 3.3 - "Persons Who May Consent"**].

3.2.2 Knowledgeable: A consent to the collection, use or disclosure of personal health information about an individual is knowledgeable if it is reasonable in the circumstances to believe that the individual knows,

1. the purposes of the collection, use or disclosure, as the case may be; and
2. that the individual may provide or withhold consent.

Sunnybrook will make a reasonable effort to ensure that the purposes for which the information will be used are known by the individual, by posting a notice describing the purposes where they are likely to come to the individual's attention, or by providing information about the purposes orally or in a poster, brochure or other written material. The information will be stated in such a manner that the individual can reasonably understand how the information will be used or disclosed.

3.2.3 Relative to the Information: Consent relates to the information known by the individual to be collected, used or disclosed.

3.2.4 Non-deceptive, Non-coercive: Sunnybrook will not, as a condition of the supply of a healthcare service, require an individual to consent to the collection, use or disclosure of personal health information beyond that required to fulfill the explicitly specified and legitimate purposes, nor will Sunnybrook obtain consent through deception.

3.2.5 Revocable: In circumstances where the consent of the individual is required for the collection, use or disclosure of personal health information, the individual may withdraw the consent, whether the consent is express or implied, by providing written notice to [Sunnybrook's Privacy Office](#). The withdrawal of consent will not have retroactive effect.

3.2.6 Limited Consent: When disclosing PHI with a consent that has been limited by an express instruction from the the individual, Sunnybrook will notify the custodian to whom the information is being disclosed of the fact of the limitation.

3.2.7 Conditional Consent: Any condition an individual places on their consent to Sunnybrook's collection, use or disclosure shall not prohibit or restrict Sunnybrook from recording personal health information as required by law or established standards of practice.

3.3 Persons Who May Consent:

- a. The individual to whom the information pertains, if the individual is capable of consenting;
- b. If the individual is at least 16 years of age, any capable person of at least 16 years of age whom the individual has authorized in writing to act on his/her behalf;
- c. If the individual is less than 16 years of age, a parent of the child or a CAS or other person who is lawfully entitled unless the information relates to treatment about which the child has made a decision on his/her own or counselling in which he/she has participated on his/her own;
- d.

Where a capable child under 16 decides to give, withhold or withdraw consent, or provide information, the child's decision prevails over the parent, CAS or other person;

e.

Where a substitute decision maker instructs Sunnybrook on the individual's behalf, and Sunnybrook is of the opinion that the substitute decision maker has not taken into consideration the individual's wishes, values and beliefs, if known, whether the benefits outweigh the risks and whether the collection use or disclosure is necessary, it may apply to the Board for a determination as to whether the substitute decision-maker complied with the PHIPA.

f.

If the individual is incapable of consent, a person who is capable and authorized to consent who is not prohibited by court order from access to the individual's personal health information or from giving or refusing consent, including, in order of rank:

i.

Individual's guardian

ii.

Attorney for personal care

iii.

Representative appointed by a capacity Board

iv.

Spouse or partner

v.

A child or parent or CAS or other person who is lawfully entitled to give or refuse consent in the place of a parent but not a parent with only a right of access

vi.

A parent with only a right of access

vii.

Brother/sister

viii.

Any other relative

g. If the individual is deceased, the deceased's estate trustee or the person who has assumed responsibility for the administration of the deceased's estate;

h. A person whom an Act of Ontario or Canada authorizes to act on behalf of the individual.

Where there is a conflict between or among persons of equal rank, the Public Guardian and Trustee may decide.

3.4 Implied vs Express Consent:

3.4.1 Implied Consent: Where Sunnybrook receives personal health information about an individual from the individual, the individual's substitute decision-maker or another health information custodian for the purpose of providing health care to the individual, it is entitled, but not required, to assume that it has the individual's implied consent to collect, use or disclose the information for the purposes provided in the notification posted or provided, unless Sunnybrook is aware that the individual has expressly withheld or withdrawn the consent.

3.4.2 Express Consent: Consent to the collection, use or disclosure of personal health information about an individual **must be express** if the information is disclosed to a person who is not

defined as a health information custodian under PHIPA. Consent for the disclosure of personal information must otherwise be express as provided for under the [Access to and Disclosure of Personal Health Information](#).

3.4.3 Assumption of validity: Where Sunnybrook has obtained an individual's consent, including their implied consent, or has received a copy of a document purporting to record the individual's consent, to a collection, use or disclosure of personal health information, Sunnybrook is entitled to assume that the consent fulfils the requirements of PHIPA and the individual has not withdrawn it, unless it is not reasonable to assume so.

4.0 Limiting Collection of Personal Information

Sunnybrook 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 Limited collection: Sunnybrook will not collect personal information indiscriminately. Except as otherwise required by law, both the amount and type of information collected will be limited to that which is reasonably necessary to fulfill the purposes for the collection. Sunnybrook will not collect PHI if other information will serve the purposes.

4.2 Non-deceptive collection: The requirement that personal information be collected by fair and lawful means is intended to prevent Sunnybrook from collecting information by misleading or deceiving individuals in any way about the purposes for which information is being collected. This requirement implies that consent with respect to collection must not be obtained through deception or via omission of reasonable notification. Sunnybrook will endeavor to provide as much detail as is reasonably necessary regarding the purposes for collection in order for individuals to provide knowledgeable consent regarding the collection of their information.

5.0 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 permitted, authorized or required by law. Use or disclosure will be limited to that reasonably necessary to meet those purposes. Personal information will be retained only as long as necessary for the fulfillment of those purposes.

5.1 Need-to-know access: Individual access to personal health information by agents of Sunnybrook will be granted based on therapeutic or administrative duties as assigned to that individual. Accessing patient information for any other purpose, including research, will be deemed a disclosure and requires approval in accordance with the Sunnybrook [Access to and Disclosure of Personal Health Information](#).

5.2 Authorized Disclosure: Disclosure of patient information is generally governed by Sunnybrook [Access to and Disclosure of Personal Health Information](#) and should be consulted for specific instances of disclosure policy and procedure. Sunnybrook may generally disclose personal health information about an individual to:

- a. a health information custodian outside of Sunnybrook for the provision of patient care where it is not reasonably possible to obtain the individual's consent in a timely manner, except where the individual expressly instructs otherwise;

- b. the Minister or another health information custodian to determine or provide funding or payment to the custodian for the provision of health care or for monitoring or verifying claims for payment;
- c. a person for the purpose of contacting a relative or friend of the individual if the individual is injured, incapacitated or ill and unable to give consent personally;
- d. any person to confirm that the individual is a patient of Sunnybrook, and to advise of or confirm the individual's general health status (described as critical, poor, fair, stable or satisfactory or in similar terms), and the location of the individual in the facility, provided the individual has been given an opportunity to object and has not done so, except as otherwise required for security purposes;
- e. a person for the purpose of identifying a deceased individual or to inform a person of the fact the individual is deceased or reasonably suspected to be deceased and of the circumstances of death, where appropriate;
- f. the spouse, partner, sibling or child of a deceased individual if the recipients of the information reasonably require the information to make decisions about their own health care or that of their children (unless the individual previously expressed that the information was not to be released);
- g. a person or entity for the purpose of determining or verifying eligibility of the individual to receive health care or other services or benefits provided under an Act of Ontario or Canada;
- h. a person conducting an audit or reviewing an application for accreditation where the audit or review relates to the services provided by Sunnybrook or a health information custodian within Sunnybrook and the person shall not remove any records of personal health information from the premises;
- i. a person prescribed by regulation who compiles or maintains a registry of personal health information for the purposes of facilitating or improving the provision of health care, or that relates to a specific disease or condition or that relates to the storage or donation of body parts or substances;
- j. the Chief Medical Officer of Health or a medical officer of health;
- k. a public health authority established under the laws of Canada, a province or other jurisdiction for a purpose that is authorized by, or consistent with a purpose under the *Health Protection and Promotion Act*;
- l. a person where there are reasonable grounds to believe that the disclosure is necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm to a person or group of persons;
- m. the head of a penal or other custodial institution in which the individual is being lawfully detained or to the officer in charge of a psychiatric facility within the meaning of the *Mental Health Act* (the "MHA") to assist the institution or facility in making a decision concerning arrangements for the provision of health care to the individual or the placement of the individual into custody, detention, release, discharge or conditional discharge under the *Child and Family Services Act*, the MHA, the *Ministry of Correctional Services Act*, the *Corrections and Conditional Release Act (Canada)*, the *Criminal Code (Canada)* or the *Youth Criminal Justice Act (Canada)*;
- n. subject to any applicable regulation, as required for the purposes of a legal proceeding, contemplated legal proceeding, including for the appointment of a legal representative or guardian of the individual, and/or to comply with a Court Order, summons or warrant issued by a court or tribunal or to comply with a procedural rule relating to the production of information in a proceeding;
- o. a College within the meaning of the *Regulated Health Professions Act, Drug and Pharmacies Regulation Act, Regulated Health Professions Act, Drugless Practitioners Act*, College of Social Workers; to a Board of Regents under the *Drugless Practitioners Act*, to the Public Guardian and Trustee; the Children's Lawyer, a children's aid society, a Residential Placement Advisory Committee or the Registrar of Adoption Information;
- p. a researcher, if the researcher submits an application in writing, with a research plan as required under the *Personal Health Information Protection Act* and a copy of the decision of a research ethics board that approves the research plan and the researcher enters into the agreement with Sunnybrook in

- which the researcher agrees to comply with the conditions and restrictions of the custodian relating to the use of the information disclosed;
- q. to an entity prescribed by regulation for the purpose of analysis or compiling statistical information for the purposes of planning or managing the health care system, or to a health data institute as permitted by law;
 - r. to a person carrying out an inspection, investigation or similar procedure authorized by a warrant, a court order or otherwise authorized by law;
 - s. to a successor, archive, the Minister of Health and Long Term Care; and
 - t. as otherwise permitted, authorized or required by law.

5.3 Record retention and disposal:

5.3.1 Policy Statement: Sunnybrook's record retention and disposal policies have been established in accordance with the Ontario Public Hospitals Act (Reg 965, s.20) and are reflected in the Sunnybrook [Retention/Destruction of Records Policy](#); and the [Electronic Signature \(Use of\) Policy](#). It is Sunnybrook's Policy to retain and dispose of various records in accordance with applicable legislation, as well as guidelines set out in the Ministry of Health Guidelines for Retention and Disposition of Records by Public Hospitals.

5.3.2 Retention Period: The retention period defined in the policy guidelines may not always be the same as the minimum retention period in the applicable legislation as departments may choose to maintain records for longer periods in accordance with their reference rates and storage capacity;

5.3.3 Official Custodian: An official custodian has been assigned to each type of record in the Retention/Destruction of Records Policy. This identifies the department/unit that has responsibility for the storage and maintenance of documents and other materials in accordance with that policy.

5.3.4 Retention: Any record that contains personal health information that is the subject of a request for access or for correction shall be identified and removed from the retention period cycle to ensure that Sunnybrook retains the information long enough to allow the individual to exhaust any recourse available under this Policy or at law with respect to that request.

5.3.5 Custodian: Sunnybrook will establish procedures to ensure that the appropriate official custodian is notified as soon as practicable upon receipt of a request for access or correction, and such official custodian will be responsible for ensuring that the records are removed from the destruction cycle in accordance with **5.2 (d)** above.

5.4 Disclosures for Shared Electronic Health Record Systems: Sunnybrook participates in provincially approved shared electronic health records (EHR) and may securely share your personal health information with other health care providers involved in your care through an EHR. You have the right to know what personal health information has been sent to an EHR and which care providers may have accessed this information. You may withdraw your consent for provider access to EHR information at any time.

6.0 Ensuring 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 Limitations: 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 Updates: Sunnybrook will not routinely update personal information, unless such a process is necessary to fulfill a purpose for which the information was collected.

6.3 Third Party Notification: Personal information that is disclosed to third parties will generally be as accurate and up-to-date as necessary for the purposes known to Sunnybrook at the time of the disclosure, unless limits to the requirements for accuracy are clearly set out by the procedural policy governing the specific transaction. Sunnybrook will inform the recipient of any known limitations on the accuracy, completeness or up-to-date character of the information

7.0 Ensuring Safeguards for Personal Information

Personal information will be protected by reasonable security safeguards appropriate to the nature and format of the information being stored.

7.1 Scope of security: The security safeguards will protect personal information against loss or theft, as well as unauthorized access, disclosure, copying, use, modification or disposal. Sunnybrook maintains policy governing the integrity and security of patient information in the [Electronic Signature \(Use of\)](#); and the [Access to and Disclosure of Personal Health Information](#) policies. Sunnybrook will protect personal information regardless of the format in which it is held.

7.2 Appropriate Measures: The nature of the security safeguards will vary depending on the amount of information, distribution method, format, and the method of information storage employed. Information will be safeguarded using measures appropriate to the personal information involved.

7.3 Measures: The methods of protection will include:

- Physical measures: for example, use of lockable filing cabinets and restricting access to offices;
- Organizational measures: for example, limiting access to personal information on a “need-to-know” basis;
- Technological measures: for example, the use of passwords, system access controls and encryption where appropriate;
- Regular audits of system access and use, including appropriate disciplinary action for non-compliance with legal or hospital requirements governing access to information.

7.4 Employee Awareness: Sunnybrook recognizes the importance of maintaining the confidentiality of personal information and currently maintains policy appropriate for this including, but not limited to, [Personal Health Information Privacy and Security](#), [Medical Records and Chart Completion](#); [Access to and Disclosure of Personal Health Information](#); [Recording of Patient Information](#); and policies. All Sunnybrook agents are contractually obliged to comply with these policies for the purposes of ensuring patient personal health information privacy rights.

7.5 Handling, Disposal and Anonymization: Sunnybrook's record retention and disposal policies have been established in accordance with the Regulation enacted pursuant to the Ontario Public Hospitals Act (Reg. 965, s.20) and are reflected in the **Sunnybrook Retention/Destruction of Records Policy**; and the **Electronic Signature (Use of) Policy**. It is Sunnybrook's Policy to retain and dispose of various records in accordance with applicable legislation, as well as guidelines set out in the Ministry of Health Guidelines for Retention and Disposition of Records by Public Hospitals. Care will generally be used in the disposal or anonymization of personal information, and to prevent unauthorized parties from gaining access to the information during or after its use.

7.6 Notice of Loss: At the first reasonable opportunity, Sunnybrook shall notify the individual at the individual's last known address or phone number, depending on the method of notification chosen, if the individual's personal health information has been lost, stolen or accessed by unauthorized persons unless otherwise required by law.

7.6.1 Notice of Loss During Research: In circumstances where the personal information that has been lost, stolen or accessed by unauthorized persons was held by a researcher that collected it from Sunnybrook, the researcher shall not notify the individual unless Sunnybrook first obtains the individual's consent to having the researcher contact the individual and informs the researcher that the individual has given the consent.

8.0 Openness about Personal Information Policies and Practices

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

8.1 Reasonable efforts: Sunnybrook will be open about its policies and practices with respect to the management of personal information. Individuals will be able to acquire information about Sunnybrook policies and practices without unreasonable effort. This information will be made available in a form that is generally understandable.

8.2 Written public statement: Sunnybrook will make available to the public a written statement that,

- a. provides a general description of Sunnybrook's information practices;
- b. describes how to contact the CPO
- c. describes how an individual may obtain access to or request correction of a record of personal health information about the individual that is in the custody or control Sunnybrook; and
- d. describes how to make a complaint to Sunnybrook and to the Information Privacy Commissioner under PHIPA.

8.3 Availability: Sunnybrook may make information on its privacy policies and practices available in a variety of ways. For example, Sunnybrook may choose to make brochures available in high traffic patient areas (e.g., the emergency room), mail information to its patients, provide online access, post signs, or establish a toll-free telephone number where appropriate.

9.0 Individual Access to Personal Information

Except as restricted by law, 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 may request to have it amended.

9.1 Limitations: In certain circumstances, Sunnybrook 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 and are detailed in the Sunnybrook [Access to and Disclosure of Personal Health Information](#). The reasons for denying access will be provided to the individual upon request.

9.1.1 Types of Information: Individual access to records of personal health information may not apply to a record that contains:

- a. quality of care information;
- b. information subject to legal privilege, including litigation privilege where the proceeding and any resulting appeals or other procedures have not been concluded, or where the information was collected or created for the purposes of an inspection, investigation, or similar procedure authorized or permitted by law and any such process or resulting process has not been concluded;
- c. information collected or created for the purpose of complying with the requirements of a quality assurance program;
- d. personal health information which, by granting access, may result in serious harm to the treatment or recovery of the individual or a risk of serious bodily harm to the individual or other person;
- e. raw data from standardized psychological tests or assessments; or
- f. personal health information in the custody of a prescribed class of custodians
- g. information that would identify the individual who provided information in the record to Sunnybrook in confidence or other information as permitted or required by law;

9.1.2 Severability: Information noted in **section 9.1.1** will, where it is reasonable to do so, be severed from the record to permit access to be granted to the remainder of the record.

9.2 Response to Request for Access to Personal Health Information: Upon written request of the person to whom the personal health information pertains or of their Substitute Decision Maker, Sunnybrook will provide the individual access to this information and upon request provide a copy of the record to the individual, or will inform the individual that, after a reasonable search, the information is not available. Where entitled or required to do so, Sunnybrook may withhold the information and give written notice to the individual stating that Sunnybrook is refusing the request and, giving the reason, and stating that the individual is entitled to make a complaint about the refusal to the Commissioner. Response to a request to access such information may be given within 30 days of request unless otherwise permitted by law. Copies of such information along with a schedule of fees for access may be given in accordance with the Sunnybrook Correspondence Fee Schedule.

9.3 Identification Requirements: An individual may be required to provide sufficient information to permit Sunnybrook to confirm his or her identity and, if appropriate, his authority for making the request and/or identify and locate the record with reasonable effort. The information provided will be used only for this purpose.

9.4 Third-party Identification: In providing an account of third parties to which it has disclosed

personal information about an individual, Sunnybrook will attempt to be as specific as possible. When it is not possible to provide a list of the organizations to which it has actually disclosed information about an individual, Sunnybrook will provide a list of the organizations to which it may have disclosed information about the individual.

9.5 Reasonable Response: Sunnybrook will respond to an individual's request within a reasonable time and at reasonable cost to the individual. The fee estimate will be provided in advance. If Sunnybrook has custody or control of the information and a decision has been made in respect of granting access, including in respect of any severance of information that may be required, the requested information will be provided or made available in a form that is generally understandable to the requestor. Sunnybrook will provide professional interpretation of the terminology, code or abbreviation used in the record at the individual's request.

9.6 Correction/Amending: Sunnybrook maintains policies that allow for the amendment to patient personal health information in its [Electronic Signature \(Use of\)](#), and the [Access to and Disclosure of Personal Health Information](#) policies. When an individual to whom Sunnybrook has given access to his/her personal information record believes that the record is inaccurate or incomplete for the purposes for which the information was collected or used, the individual may request in writing that a correction be made to the record. Within 30 days of this request (subject to limited extensions permitted by law), if the individual has demonstrated to satisfaction of Sunnybrook that the record is incomplete or inaccurate for the purposes for which Sunnybrook uses the information and has given Sunnybrook the information necessary to make the correction, Sunnybrook will either:

- a. Make the correction by recording the corrected information in the record and striking out the incorrect information in a manner that does not hide the original notation; or
- b. Not make a correction to the record if the record was originally created by another health information custodian or if it consists of a professional opinion or observation that was made in good faith about the individual.

9.7 Duty to inform: Sunnybrook will inform the individual of the hospital's decision to correct or refusal to correct. Such notification will include the reasons for the refusal and inform the individual that he/she is entitled to

- a. prepare a concise statement of disagreement that sets out the corrections he/she wants to have made;
- b. require that the statement be attached to the record and disclosed whenever the relevant information is disclosed; and
- c. require Sunnybrook to make all reasonable efforts to disclose to persons to whom a correction would have been disclosed; and
- d. make a complaint to the Office of the Information and Privacy Commissioner of Ontario.

9.8 Written Notice: At the request of the individual, Sunnybrook will give written notice of the requested correction, to the extent reasonable, to persons to whom the information has been disclosed unless the correction cannot be expected to have an effect on the ongoing health care or other benefit to the individual.

9.9 Challenging: The individual may place a note in his/her record to challenge the information

contained therein. When a challenge is not resolved to the satisfaction of the individual, Sunnybrook will record the substance of the unresolved challenge in the record. When appropriate, the existence of the unresolved challenge will be transmitted to third parties having access to the information in question.

10.0 Challenging Compliance with Sunnybrook's Privacy Policies and Practices

An individual will be able to address a challenge or complaint concerning compliance with the above principles to the Chief Privacy Officer.

10.1 Confidential Enquiry: All complaints to Sunnybrook's Privacy Office will be treated in a confidential manner.

10.2 Documented Procedures: Sunnybrook will have procedures in place to receive and respond to all complaints or inquiries about its policies and practices relating to the handling of patient personal information. The CPO or a designated individual or individuals accountable for Sunnybrook's compliance will review all challenges and complaints to determine whether they have merit on a legislative, hospital policy and best practice basis and will engage the opinion of Sunnybrook staff and other departments on a confidential basis as required in order to resolve the complaint.

10.3 Accessibility: The complaint procedures will be easily accessible and simple to use. Sunnybrook will inform individuals who make inquiries or lodge complaints of the existence of relevant complaint procedures. A range of applicable procedures may exist depending on the nature of the complaint.

10.4 Appropriate Measures: If a complaint is found to be justified, Sunnybrook will take appropriate measures, including, if necessary, amending its policies and practices.

10.5 Notice to Commissioner: Sunnybrook will make available information regarding the means to make a complaint to the Information Privacy Commissioner of Ontario.