



Policy Name:  <p style="text-align: center;"><b>ACCESS TO RESIDENT PERSONAL HEALTH INFORMATION</b></p>	Policy Number:  <p style="text-align: center;"><b>0935</b></p>
Approved By: <p style="text-align: center;">Executive Team</p>	Effective Date:  <p style="text-align: center;"><b>FEBRUARY 1, 2000</b></p>
Reason for Revision: <span style="float: right;"><i>Click on item below and select item from list.</i></span>  <p style="text-align: center;"><b>CONTENT- Enter BELOW Reason for change Ex: Combined Policy ## and ##.</b></p> <p style="text-align: center;">New format being used</p>	Date Revised:  <p style="text-align: center;"><b>October 26, 2021</b></p>  Next Date for Review:  <p style="text-align: center;"><b>October 26, 2024</b></p>
Section: <p style="text-align: center;">Section 09 - Administration</p>	Page No:  <p style="text-align: center;"><b>Page 1 of 9</b></p>

## Policy

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### OBJECTIVES

- To outline requirements for the collection, access, use, or disclosure of records, including health information, personal information, and business information (collectively referred to as 'information') in the control or custody of Alberta Health Services (AHS).
- To comply with the Health Information Act (Alberta) (HIA), Freedom of Information and Protection of Privacy Act (Alberta) (FOIP), and the other applicable legislation.
- To support the expected InfoCare behaviors of AHS people.

### ELEMENTS

#### 1. Collection and Use of Information

1.1 AHS people shall collect and use:

- a) health information, in accordance with the HIA, only where the collection of the information relates directly to, and is necessary for, carrying out AHS' activities; and
- b) personal and business information, in accordance with FOIP, only where the collection of the information relates directly to, and is necessary for, AHS' operating programs or activities, and the use is for the purpose for which the information was originally collected or compiled (or for a use consistent with that purpose), or another use authorized by FOIP.

1.2 AHS may collect and use information in accordance with other applicable legislation.

1.3 AHS people shall only access and use information required for the performance of their duties with AHS.

#### 2. Individuals' Requests to Access Own Information

2.1 Individuals, or their authorized representatives acting on the individuals' behalf in accordance with their authorization, may request access to their own health or personal



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information.

2.2 Individuals' requests for access to health or personal information shall be directed to the department holding the record unless the request specifies HIA or FOIP. Requests specifying HIA or FOIP shall be forwarded to the Information & Privacy Department as soon as reasonably practical.

2.3 AHS departments, in conjunction with the Information & Privacy Department, shall develop processes and fee schedules for responding to requests for information.

### **3. Individual Requests to Correct Their Own Health or Personal Information**

3.1 Individuals, or their authorized representatives acting on the individuals' behalf in accordance with their authorization, may request amendments or corrections to their own information. Requests for amendments or corrections may be restricted or declined by AHS in a manner consistent with legislation.

3.2 Departments shall, in conjunction with the Information & Privacy Department, develop processes for responding to requests for correction of information.

3.3 Individuals or their authorized representatives acting on the individuals' behalf, requesting corrections of factual matters shall be directed to the department holding the record.

3.4 Requests regarding other matters, or those related to FOIP or HIA, shall be directed to the Information & Privacy Department as soon as reasonably practical.

### **4. Disclosure of Information**

4.1 Disclosure of health information or personal information shall require the written consent of the individual who is the subject of the information, or the individual's authorized representative, unless disclosure without consent is authorized by the HIA or FOIP.

4.2 AHS shall comply with all mandatory disclosure requirements in federal and provincial legislation.

### **5. Requests for Disclosure of Information**

5.1 Requests for disclosure of information classified as public, restricted, confidential, or protected (see the Information Classification Policy) may be responded to by the department receiving the request in accordance with AHS privacy and security policies.

5.2 Requests for access to records which specifically reference FOIP or the HIA shall be



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forwarded to the Information & Privacy Department as soon as reasonably practical unless an alternative practice has been agreed upon by Information & Privacy and the department receiving the request.

5.3 Departments receiving requests for disclosure of health, personal, or business information from third parties (other than persons authorized to act on behalf of the individual who is the subject of the information) shall, in conjunction with the Information & Privacy Department, develop processes and fee schedules for responding to the requests.

## 6. Non-Identifying Health or Personal Information

6.1 Non-identifying health or personal information may be collected, accessed, used, and disclosed by AHS for any purpose in accordance with the HIA or FOIP as applicable.

6.2 AHS may transform identifiable health or personal information into non-identifying health or personal information where the end user of the information does not require the identity of the individual(s).

6.3 AHS may disclose non-identifying health or personal information to noncustodians for the purposes of data matching by the non-custodian. When doing so, AHS shall inform the non-custodians that they shall notify the Office of the Information and Privacy Commissioner of their intent prior to undertaking any data matching.

## 7. Breaches of Information Confidentiality and Mandatory Reporting

7.1 Any collection, access, use, or disclosure of information not complying with this Policy, or other AHS policies, shall be reported as soon as practicable to the AHS Information & Privacy Department. AHS people shall take immediate action to contain breaches to reduce the risk of further harm relating to the breach. Concerns about non-compliance shall be investigated by the Information & Privacy Department, and confirmed breaches shall be reported to the Office of the Information and Privacy Commissioner of Alberta by the Information & Privacy Department in accordance with relevant legislation (as applicable).

7.2 Non-compliance with this Policy may result in disciplinary action up to and including termination of employment or appointment.



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**DEFINITIONS**

AHS people: means Alberta Health Services employees, members of the medical and midwifery staffs, Students, Volunteers, and other persons acting on behalf of AHS (including contracted service providers as necessary).

Authorized representative: means a person who has been granted legal authority to make decisions on behalf of another person, has written authorization to act on that person’s behalf, or is otherwise authorized by law to act on behalf of that person.

Business information: means general information, which is any recorded information about AHS’ business activities such as those related to facilities, infrastructure, and security; policies and programs; budgets, expenses, and contracts; reports and statistics, etc. that are under the custody or control of AHS.

Data matching: means the creation of individually identifying health information by combining health information, whether identifiable or non-identifiable, from two or more sources without the consent of the individual who is the subject of the information.

Health information: means one or both of the following:

- a) Diagnostic, treatment, and care information; and
- b) Registration information (e.g., demographics, residency, health services eligibility, or billing).

Non-identifying health or personal information: means that the identity of the individual who is the subject of the information cannot be readily ascertained from the information.

Personal information: means recorded information, not governed by the Health Information Act (Alberta), of any kind stored in any format that identifies an individual including, but not limited to:

- a) Address and contact information (including an identifying number or symbol assigned to an individual);
- b) Race, ethnic origin, gender, or marital status;
- c) Educational, financial, employment, or criminal history;
- d) Opinions of others about the person;
- e) The image of a person on a photograph; and
- f) Personal views and opinions of a person (except if these are about another person).

**REQUIRED FORMS AND EQUIPMENT REFERENCES**

Electronic forms location – FORMS  
 Hardcopy forms location – Nursing Station file cabinet.



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1. Law Enforcement Disclosure form

## **CROSS REFERENCES**

Policy 0937 - Process for Severing of Third Party Information from the Health Record

## **REFERENCES**

Adapted from Alberta Health Services FOIPP Policies; AHS Policy Level 1, Collection, Access, Use and Disclosure of Information, Document #1112, effective January 10, 2012.

Alberta Queen's Printer. Freedom of Information and Protection of Privacy Act. Revised Statutes of Alberta 2000 Chapter F-25. Current as of December 11, 2015.

Alberta Queen's Printer. Health Information Act. Revised Statutes of Alberta 2000 Chapter H-5. Current as of June 13, 2016.

The Salvation Army – Legal Privacy Manual. (2011). 0503 Access to Personal Information by Clients.

The Salvation Army – Legal Privacy Manual. (2011). 0506 How to Respond to an Access to Information Request.

## **Procedure**

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### **1. Requests by Current Residents**

If a resident wishes to see his/her health record while they are still at the hospice, they may do so in the presence of a physician from the Agapé Hospice interdisciplinary team. Access to the record should not interfere with resident care. The chart is not to be removed from the premises.

When a request is received, the Nursing Lead\Executive Director must review the chart to determine whether any information on record could cause harm to the resident or to public safety. If it is determined that no harm will result, the chart may be reviewed with the resident and anyone the resident deems appropriate to be in the room with them.

If it is deemed harm will be caused, discretionary exception will be made to remove the information from the chart prior to the review or to deny access. Refer to Policy#0937 – Process for Severing Third Party Information from the Health Record.

### **2. Fee Structure and Schedule**

The applicant may be excused from paying all or part of the fee if the applicant cannot afford the payment or for any other reason it is fair to excuse the payment. The onus will be on the applicant to demonstrate inability to pay fees. The decision to waive fees resides with the Executive Director.



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The fees charged must not exceed the actual cost of providing the copies of information and includes the **time and cost** required for copying the record. An estimate for copying a record must be provided indicating the time and cost of copying the record. If costs are over estimated, a refund must be provided to the applicant.

If the personal information is released under a continuing request, the estimate must include the total fees payable over the course of the continuing request. An applicant has up to 20 days to indicate if the fee estimate is acceptable or would like to modify the request to change the fees assessed. A continuing request is a request where the applicant has indicated that the request continues to have effect for a specified period of up to two years.

Further processing of a request will not occur until:

- a. agreement by the applicant to pay the fee has been received
- b. 50% of estimated fees exceeding \$150.00, is received
- c. agreement to pay balance of fees upon release of information to the applicant is received

The amounts of fees set out are the maximum amounts that can be charged to applicants.

- Time for processing first request: \$25.00
- Time for Professional fees if required: \$40.00 per hour
- Time for copying a record: \$10.00 per 1/4 hour

**3. Copying a record:**

Photocopies, hard copy laser print and computer print outs: \$0.25 per page

Photographs (color or black & white):

- |                                  |                      |
|----------------------------------|----------------------|
| 4" x 5"                          | \$5.00               |
| 5" x 7"                          | \$5.00               |
| 8" x 10"                         | \$8.00               |
| 11" x 14"                        | \$9.00               |
| 16" x 20"                        | \$10.00              |
| Plans and blueprints             | \$2.50 per sq.ft.    |
| Any other media not listed above | Actual cost to Agapé |

**4. Requests from former Residents and/or legal advocate:**

The request must be received in writing and directed to the Clinical Lead or the Executive Director (see section 9 of this policy);

- a. Within 7 days of the receipt of the request for access to information, acknowledge receipt of the request and notify the individual of the steps that will be taken to fulfill the request.



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- b. Response to the applicant will be made within 30 days of receipt of the request unless the time limit has been extended under Section 13 of the Freedom of Information and Protection of Privacy Act (FOIPP);
- c. The applicant will be told by the Clinical Lead or the Executive Director whether access to the record or partial record is granted or refused; if access is granted, where, when, and how access will be given and, if access is refused:
  - i. The reasons for refusal and basis of refusal according to FOIPP;
  - ii. That the applicant has the right to request a review of the decision by the Information Privacy Commission;
- d. Prior to the release of psychiatric/psychological information, the healthcare provider will be notified;
- e. A physician from the interdisciplinary team must be present during the viewing of the chart to maintain the integrity of the chart and to answer any clinical questions.

**5. Requests from Law Enforcement:**

If a law enforcement agency applies for the release of personal health information, one of the following must apply:

- a. The agency must secure the resident's and/or the legal representative's consent to release the information; (see section 9 of this policy);
- b. A subpoena, warrant or order issued by a court having jurisdiction to compel release of information is presented;
- c. The release is required or permitted under provisions set forth in FOIPP (Section 38);
- d. Compelling evidence exists that non-disclosure of the information threatens the health or safety of the public in interest [Section 31(1) - (3)].

In instances where a law enforcement agency references Section 38 (1)(0) for access to personal information, the Law Enforcement Disclosure form (see attachment A) must be completed in order for the request to be defensible.

**6. Request for the Release of Personally Identifiable Health Information:**

If a request for the release of personally identifiable health information is received for the purpose of approved research or statistics gathering, the request is granted only if all of the following are met:

- a. The research has received ethical, scientific and research and development approval from Agapé's Ethics Consultation Team and/or The Salvation Army Spiritual Values Committee; and
- b. The research purpose cannot be reasonably accomplished without the use of personal identifiers; and



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- c. Any record linkage is not harmful to the individuals about whom the information is and the benefits are clearly in the public interest; and
- d. The research meets the conditions set out regarding:
  - I. Security and confidentiality of information released, and
  - II. Removal or destruction of individual identifiers, and
  - III. Subsequent use or disclosure of individually identifiable information is prohibited without authorization from The Salvation Army Agapé Hospice; and
- e. The researcher has signed an agreement to comply with the above conditions, FOIPP, and existing Agapé Hospice policies and procedures.

**7. The Salvation Army Agapé Hospice may disclose personal information from archives or old files for research purposes if:**

- a. The disclosure is not an unreasonable invasion of personal privacy under Section 16 of FOIPP;
- b. The disclosure meets the criteria set out above;
- c. The information is about someone who has been deceased for 25 years or more;

**or**

- d. The information is in a record that has been in existence for 75 years or more.

If a request for the release of personal information is received for fundraising purposes, The Salvation Army believes this is not consistent with the original purpose for which the personal health information was collected. Therefore, no personal information will be released to fundraising agencies unless consent from the resident has been received in writing prior to the release of the information.

**8. Receiving/Transmitting Personal Health Information by Fax:**

If it is necessary to receive/transmit personal health information by fax, the following apply:

- a. All personal health information is clearly marked confidential and is only available to authorized users;
- b. The transmittal of information via fax is required to provide timely access to information for resident care;

Transmitted information must have a reasonable and direct connection to the purpose for which it was originally collected.

All available safeguards will be taken to ensure the privacy of the resident health information. These safeguards include:

- a. The fax machine is located in a secure area where it can be monitored and used by authorized personnel only;
- b. The sender of the information is responsible for ensuring the security of the





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information to the greatest extent possibly, including supervising the transmission to its completion. No personal health information, including medications orders, will be left unattended at the fax machine;

- c. Only essential documents which are immediately necessary for the continuity of resident care will be transmitted by fax. Additional information should be forwarded through regular postal/courier channels;
- d. All faxed personal health information will be received on bond paper in order to ensure document preservation. The faxed documents are considered part of the health record and are to be filed on the resident record;
- e. All personnel authorized to use the fax machine will be orientated to this policy;
- f. Personnel expecting to receive faxed personal information will stand beside the fax machine to receive the transmission;
- g. All transmitted information will be accompanied by a Fax Transmission cover sheet;
- h. To ensure accuracy in inputting the number, the sender will do a visual check on the fax machine display.

**9. Request for Release of Personal Information of a Deceased Resident from a Personal Representative (Executor or Administrator of the Estate):**

The request for release of information must be received in writing and meets the criteria set out in the next section. Personal information may be released/disclosed so that the next of kin or a friend of the deceased may be contacted or for the administration of the deceased's estate.

**10. Consent for the Release of Information:**

The following criteria must be met:

- a. It must be in writing, dated within one year of the receipt, and signed by the resident or guardian or legal representative (executor, administrator or the estate or trustee);
- b. It must specify to whom the health information is to be disclosed and what information is to be disclosed;
- c. It must indicate how the health information will be used;
- d. It must specifically authorize The Salvation Army Agapé Hospice to release the information,
- e. A copy or fax of the consent will be accepted;
- f. It must be in English.

A verbal consent will be accepted only in cases where the applicant's ability to read or write English is limited or the applicant has a physical disability or condition that impairs his/her ability to make a written request.

The sharing of health information for all other purposes not outlined in this policy requires consent by the resident or their legal representative.