

FNIHB-OR Nursing Policy and Procedure

Section: **Professional Nursing Practice**

Policy Number: **II - 21**

Subject: **Release of Information**

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Distribution: **All Nursing Facilities**

Revised:

1. POLICY:

- 1.1 Client information shall be accessed or disclosed only by authorized individuals in accordance with relevant policies, procedures and legislation such that all safeguards for privacy are maintained.
- 1.2 Personal health information may be shared with the members of the health care team when the information facilitates efficient and effective care. The 'Circle of Care' includes all those providing care to the client, regardless of whether they are employed by FNIHB-OR.
- 1.3 Client information collected and used by the health care facilities for client care, epidemiological studies, research, education and quality assurance will be released in accordance with the law and in the best interests of the client, health centre and other health care professionals.
- 1.4 All FNIHB-OR staff, students and volunteers must adhere to the following procedure regarding release of health information. Failure to comply is considered to be a breach of confidentiality.

2. PRINCIPLES:

- 2.1 Every individual has a legal right to control the collection, use, access and disclosure of their personal health information. The *Personal Health Information Protection Act (PHIPA)* (2004) describes the provisions for the management of personal health information and the client's rights regarding their personal health information
- 2.2 Personal Information protected by the Privacy Act is information recorded in any form, about an identifiable individual or for which there is a serious possibility of re-identification of that individual.
- 2.3 Personal health information is stored in a variety of Personal Information Banks. These banks provide descriptions about how personal information is used, and for how long the information is being retained.
- 2.4 Nurses have ethical and legal responsibilities to maintain the confidentiality and privacy of all client health information obtained while providing health care services to clients. Breaches of confidentiality occur when personal information is accessed without a "need to know" or disclosed without proper authorization.
- 2.5 All nurses are expected to attend the ATIP training ("Privacy 101") at the earliest availability.
- 2.6 Access to client information extends to all health related information that FNIHB-OR staff and volunteers learn through the duties of their employment. FNIHB-OR staff shall only share client

information with other health care team members who are considered essential for care, epidemiological studies, research, education and continuous quality improvement. They will also ensure that the sharing of information is in the best interest of the client and that the recipient is qualified in every respect to receive the information.

- 2.7 Any questions about the release of information should be referred to the immediate supervisor. The Access to Information and Privacy Coordinator for Health Canada may be consulted as required.

3. DEFINITIONS:

- 3.1 **Circle of Care:** Refers to health care providers directly involved in the care and treatment of a particular patient in a specific case. It may include nurses, physicians, specialists, or other health care providers (both regulated and non-regulated) referred by the primary care or public health provider.
- 3.2 **Nurse:** For the purpose of this policy, refers to Registered Nurses, Nurse Practitioners, and Registered Practical Nurses.
- 3.3 **Personal Health Information:** Refers to any identifying information about clients that is in verbal, written or electronic form. Such information relates to the following:
- a. physical or mental health (including family health history);
 - b. care previously provided;
 - c. a plan of service;
 - d. payments or eligibility for health care;
 - e. donation of body parts or substances, or information gained from testing these body parts or substances;
 - f. a person's health number; or
 - g. the name of a client's substitute decision-maker. (PHIPA, 2004)
- 3.4 **De-Identified Client Information** is information that is in statistical format only, without any identifying client information.
- 3.5 **Information Privacy:** The client's right to control how his/her personal health information is controlled, used and disclosed (CNO, 2009).

4. PROCEDURE:

- 4.1 Each staff member shall collect, use, access and disclose all client personal health information in accordance with the College of Nurses of Ontario's Practice Standard – Personal Health Information and the FNIHB Privacy Standard Operating Procedures. The FNIHB Privacy Standard Operating Procedures include:
- 4.1.1 "Privacy Standard Operating Procedures – 'Circle of Care' Disclosures of Personal Information", which is included as Appendix A.
 - 4.1.2 "Privacy Standard Operating Procedures – Proactive Disclosures of Personal Information", which is included as Appendix B.
 - 4.1.3 "Privacy Standard Operating Procedures – Third Party Requests for the Disclosure of Personal Information", which is included as Appendix C.

Release of Health Information to Health Care Provider(s)

- 4.2 Client consent is not required when the personal information is being disclosed to health care provider(s) included in the client's 'Circle of Care'. The ATIP office does not require notification of this disclosure.
- 4.3 If the personal information is to be disclosed to a provider who is not considered part of the client's circle of care, then consent from the client or substitute decision maker is required, unless extenuating circumstances exist.
- 4.4 The FNIHB Privacy Standard Operating Procedure – 'Circle of Care' Disclosures of Personal Information (Appendix A) outlines the extenuating circumstances whereby personal information may be released to a provider outside of the client's circle of care without prior client consent.
- 4.4.1 These critical health emergencies include the following:
- i. Is it an emergency situation whereby an immediate, urgent and critical health situation of a temporary nature, regardless of its cause, may seriously endanger or threaten the life, health or safety of the individual?
 - ii. Would a reasonable person agree that an immediate release of this personal information was necessary?
 - iii. Does the disclosure avert or minimize an imminent danger to the health or safety of any person?
 - iv. Is the disclosure to occur within a timeframe that makes it impossible to receive concurrence from the ATIP coordinator?
- 4.4.2 The nurse shall document any such disclosure in the client's health record and notify the ATIP office as soon as possible.
- 4.5 If the request for disclosure of personal information is not from a member of the client's Circle of Care and it is not deemed to be a critical health emergency (as described in 4.4 of this policy), then the nurse shall contact the ATIP office for direction and approval.
- 4.5.1 If the ATIP coordinator approves the request, then the nurse shall disclose the personal information.
- 4.5.2 If the ATIP coordinator denies the request, then the nurse will not disclose the personal information.
- 4.6 The nurse must ensure that the information released is accurate and that he/she discloses the least amount of information possible. Any third party information must be withheld and remain confidential.

Proactive Disclosures of Client Information

- 4.7 Proactive disclosures take place when information is disclosed without a direct request from a third party and are normally provided as a matter of course by health service providers.
- 4.8 Proactive disclosures of personal information may be granted in accordance with the FNIHB “Privacy Standard Operating Procedures – Proactive Disclosures of Personal Information”, included as Appendix B.

Release of Information to Law Enforcement Personnel

- 4.9 Client information may be released to Law Enforcement Personnel according to FNIHB-OR *Release of Information – Law Enforcement Investigations* policy.

Third Party Requests for Release of Information

- 4.10 Requests for the release of personal information from third parties may be granted in accordance with the FNIHB “Privacy Standard Operating Procedures – Third Party Requests for the Disclosure of Personal Information” (Appendix C).
- 4.11 Common third party requests may originate from the following:
 - i. Law enforcement
 - ii. Private insurers
 - iii. Employers
 - iv. Financial institutions
 - v. Researchers
 - vi. Requests from professional bodies
 - vii. Summonses, subpoenas, and court orders
- 4.12 If third party requests originate from a party not listed in 4.11 of this policy, then consent from the client or substitute decision maker shall be obtained, unless extenuating circumstances exist.
- 4.13 The FNIHB Privacy Standard Operating Procedure – Third Party Requests for the Disclosures of Personal Information (Appendix C) outlines the extenuating circumstances whereby personal information may be released to a third party without prior client consent.
 - 4.13.1 These critical health emergencies include the following:
 - i. Is it an emergency situation whereby an immediate, urgent and critical health situation of a temporary nature, regardless of its cause, may seriously endanger or threaten the life, health or safety of the individual?
 - ii. Would a reasonable person agree that an immediate release of this personal information was necessary?
 - iii. Does the disclosure avert or minimize an imminent danger to the health or safety of any person?
 - iv. Is the disclosure to occur within a timeframe that makes it impossible to receive concurrence from the ATIP coordinator?
 - 4.13.2 The nurse shall document any such disclosure in the client’s health record and notify the ATIP office as soon as possible.

4.14 If the third party request for disclosure of personal information is not deemed to be a critical health emergency (as described in 4.13 of this policy) the nurse shall contact the ATIP office for direction and approval (regardless of whether client consent is obtained).

4.14.1 If the ATIP coordinator approves the request, then the nurse shall disclose the personal information.

4.14.2 If the ATIP coordinator denies the request, then the nurse will not disclose the personal information.

4.15 When information is requested for the purpose of external database reporting, only aggregate client information may be released.

4.15.1 Prior consent of the client or substitute decision maker is not required when the client information is de-identified.

4.15.2 Only external database systems approved by FNIHB-OR will receive de-identified client information.

5. RELATED POLICES AND PROCEDURES:

College of Nurses of Ontario. *Practice Standard: Documentation*

College of Nurses of Ontario. *Practice Standard: Ethics*

FNIHB-OR Policy: *Confidentiality*

FNIHB (2011). Privacy Standard Operating Procedures – ‘Circle of Care’ Disclosures of Personal Information.

FNIHB (2011). Privacy Standard Operating Procedures – Proactive Disclosures of Personal Information.

FNIHB (2011). Privacy Standard Operating Procedures – Third Party Requests for the Disclosure of Personal Information.

FNIHB-OR Policy: *Release of Information – Law Enforcement Investigations.*

6. REFERENCES:

Canadian Nurses Association (2008) *Code of Ethics for Registered Nurses*. Ottawa: On

Canadian Nurses Association (2001). Privacy of Personal Health Information Position Statement. Ottawa, ON.

The College of Nurses of Ontario (2009). Practice Standard: Confidentiality and Privacy – Personal health information.

Privacy Act. (R.S.C., 1985, c. P-21)

Personal Health Information Protection Act.

Approved by:		Effective Date: March 31, 2015
Director of Nursing, Ontario Region	Date:	
Regional Executive, Ontario Region	Date:	

See attached **Appendix A:** Privacy Standard Operating Procedures – “Circle of Care” Disclosures of Personal Information.

See attached **Appendix B:** Privacy Standard Operating Procedures – Proactive Disclosures of Personal Information.

See attached **Appendix C:** Privacy Standard Operating Procedures – Third Party Requests for the Disclosure of Personal Information.