

Release of Information and Belongings to Law Enforcement

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September 1, 2017

1.0 Introduction

1.1 Description

This policy describes circumstances and procedures for releasing Personal Information or belongings of patients and residents to the police and other Law Enforcement Agencies.

While Providence Health Care (PHC) endeavours to cooperate with Law Enforcement Agencies as much as possible, it must do so within the confines of its obligations regarding patient confidentiality. This policy aims to balance the need to protect the trust and privacy of PHC patients and residents with the need to cooperate with Law Enforcement Agencies as authorized or required by law, in the interests of public safety.

1.2 Scope

This policy applies to all PHC Staff and all PHC sites, departments, units and programs.

This policy does not govern the following:

- The **search** of inpatient rooms and/or belongings by staff for purposes of ensuring a safe environment for the delivery of patient care. (Refer to Policy CPF 2000: Search of Inpatient Rooms and/or Belongings – Inpatients at MSJ and SPH)
- The possession of alcohol and/or illegal substances by patients or visitors. (Refer to Policy CPF1900: Alcohol and Illegal Substances – Inpatients at MSJ and SPH)
- The reporting to police if a patient presents with what appears to be a gunshot or stab wound. (Refer to Policy *CPF2400: Gunshot and Stab Wound Reporting*).
- Policy for Release of Specimens to the Coroner or Police (Lab Policy)

2.0 Policy

PHC will only disclose personal information to Law Enforcement Agencies where authorized or as required by law.

If a member of Staff is unclear as to whether PHC has the authority to release information in any situation, they should contact the Information Access and Privacy Office or Risk Management.

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2.1 Court Orders, Search Warrants, Subpoenas and other Demands for Production

PHC must release a patient or resident's personal information that is necessary to satisfy our obligations under the law. These requests for information generally come in the form of a court order, warrant, subpoena or other legal document. Staff will release only the records, information or property specified in the demand.

1. Patient/Resident records must be specified in the court order. Refer any legal documents requesting Health Records to Health Records for processing.
2. Other Legal documents served, for any purpose other than seeking to obtain personal information, should be referred Risk Management or the Vice President Human Resources & General Counsel. Refer to Policy Receipt and Disposition of Legal Documents Served at PHC.

Privacy Flags – e.g. No Visitors, Enhanced Information Security, or Do Not Announce:

Having a privacy flag on a record does not override court orders, warrants, or other legal obligations to disclose information.

Documentation:

- Place the legal document on patient's chart; and
- Document the date of release; to whom the information was released; and a description of information released.

2.2 Reporting Required by Law

PHC will report patient/resident information to Law Enforcement where law in Canada or BC requires disclosure. E.g.

- If there is a risk of significant harm to patients/clients/residents, the public or other Staff;
- If there are facts and circumstances supporting a belief that a child (a person under the age of 19) needs protection, report as required under the *Child, Family and Community Service Act*, section 14. Staff can also refer to the "Abuse Policy" and the associated Interdisciplinary Guidelines "Child Abuse and Neglect: Duty to Report";
- If there are facts and circumstances supporting a belief that a criminal offense has been committed against a vulnerable adult, report as required under the *Adult Guardianship Act*, section 50 (reports made by designated Social Worker);
- Gunshot or stab wound (see separate policy).

2.3 Disclosure of Personal Information by Consent

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Staff may disclose a patient/resident's personal information to the police, where the patient/resident has consented in an informed way to the disclosure. The consent should be specific to the personal information to be disclosed.

Documentation: Document the patient's consent in chart. E.g. patient consented to be interviewed by police.

2.4 Disclosure of Personal Information to Assist in a Specific Law Enforcement Investigation

Staff may disclose patient personal information to Law Enforcement to assist in a Specific Law Enforcement Investigation, if all of the following apply:

- it can be determined that the requester is bona fide (e.g. name and badge number are required)
- there is a specific law enforcement investigation going on (file/investigation number required),
- the police provide adequate reason why the usual process of warrant/court order is not reasonable in the circumstances.

Then only disclose the specific information required for the investigation.

EXAMPLES include:

Law enforcement agency request for patient status (e.g. dead, critical, stable)

- Staff may release the medical status of an individual who has been brought to the facility from an accident or crime scene

Police seeking to locate a suspect or victim

- Staff may confirm whether a specified individual has recently been admitted to or treated at a PHC facility, and the individual's location if currently in a PHC facility.
- Staff may also provide location or contact information for a patient/resident not currently in a PHC facility to assist in specific law enforcement investigation.

Documentation: Complete form: *PHC-MR076: Request by Law Enforcement for Release of Information* and place on patient's chart.

2.5 Notification of Discharge or Elopement

In general, and unless the patient consents or compelling circumstances exist, staff should only notify police of a patient's discharge or elopement from a PHC facility in order to comply with a court order or the patient is certified and the Director of Psychiatry or a delegate completes a Director's Warrant under the MHA.

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However, if Staff believe that the patient/resident poses a significant risk of harm to any individual at the time of discharge, they should use their discretion to notify the police at that time.

Staff may confirm, in response to police conducting a specific law enforcement investigation, the current status respecting a patient's discharge from a PHC facility.

For a police request to receive notification on discharge or elopement, Staff must have approval from Risk Management or the Information Access & Privacy Office AND have confirmation from a PHC Leader that a process is in place to provide notification.

Documentation:

- **If information is released in absence of a court order:** Complete form: *PHC-MR076: Request by Law Enforcement for Release of Information* and place on patient's chart.
- **If a Court Order is received:** Place the Court Order on patient's chart. Document the date of release; to whom the information was released; and a description of information released.

2.6 Police Seeking to Arrest Suspect in a PHC Facility

Staff will allow police access to arrest a patient/resident or their visitor or family member unless access would interfere with a patient's treatment or unreasonably disrupt the activities of the facility.

Documentation: Document details in the patients chart.

2.7 Request by Police to Interview a Patient or Family Member

Police may ask to interview a patient/resident in a PHC facility or a visitor or family member who is either a suspect or a victim in a law enforcement matter. Police do not require a search warrant or production order to interview, but require the individual's consent.

Where appropriate, Staff may approach the individual to ask their consent to allow police to speak to them. If the individual agrees or where otherwise appropriate, Staff may allow police access to the individual to request an interview.

Documentation: If the patient/resident consents to being interviewed, document the consent in their chart.

2.8 Request by Police to Interview Staff or Obtain Statement

Police may ask to interview Staff or ask Staff to provide a written statement about a law enforcement matter involving a patient/resident where Staff have witnessed an event or been involved in the matter.

Police do not require a search warrant or production order if information is sought to assist in a specific law enforcement investigation.

Staff may answer questions or give a statement describing the events they witnessed, and may ask to receive a copy of their statement.

2.9 Disclosure of Personal Information to Notify Next of Kin

If a patient is deceased, or unconscious, unlikely to regain consciousness, and unattended, Staff may disclose personal information to the police so that they may contact the next of kin or friend.

Documentation: Make a notation on the chart indicating the disclosure and whom the information was disclosed to.

2.10 Disclosure of Personal Information in Compelling Circumstances

Staff may disclose personal information to law enforcement where compelling circumstances exist that affect the health or safety of any person. Staff may only disclose the information necessary to provide warning or to avert the risk.

Examples of compelling circumstances include, but are not limited to:

- An intent expressed by the patient/resident, or an honestly held belief by Staff, that the patient may cause serious harm to self or others, such as specific threats of assault or death; or
- Patient/resident who is incapable of driving and indicates intention to drive.

Documentation: Document the following information in the patient's chart; the date of reporting, reason for reporting, to whom the information was reported to; and a description of information released.

2.11 Disclosure to Reduce the Risk of Domestic Violence

Staff may only disclose patient/resident personal information to Law Enforcement to reduce the risk that a patient/resident will be a victim of domestic violence, if domestic violence is reasonably likely to occur and with the consent of the patient/resident. Then only disclose the information necessary to provide warning or to avert the risk.

Documentation: Document the following information in the patient's chart; the patient's consent, date of reporting, reason for reporting, to whom the information was reported to; and a description of information released.

2.12 Reporting a Patient's Disclosure of a Serious or Violent Crime

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If a patient discloses to a member of Staff the commission of a serious or violent crime, Staff may report this information to Law Enforcement only to avert an imminent risk of harm to anyone's health or safety.

In most cases, where a serious or violent crime has occurred in the past and is not likely to be repeated, Staff are not authorized to report the crime to Law Enforcement.

Documentation: Document the following information in the patient's chart; date of reporting, reason for reporting, to whom the information was reported to; and a description of information released.

2.13 Witnessing a Crime or Victim of Crime

Staff will contact security &/or police without delay if they witness a crime in progress. Staff may also make a report to police if they have been assaulted in the course of their duties. See 3.8 for Staff providing statements to police.

2.14 Personal Belongings

Staff will cooperate with a police demand to seize patient/resident belongings. Although it is up to police to determine whether they require a search warrant or production order, generally police should obtain a warrant to search or seize belongings that are stored away. Also refer to Policy CPF 2000: Search of Inpatient Rooms and/or Belongings – Inpatients at MSJ and SPH.

Documentation:

No warrant received: Complete form: *PHC-MR076: Request by Law Enforcement for Release of Information* and place on patient's chart. Document the belongings seized.

Warrant received: Place warrant on patient's chart. Document the belongings seized.

2.15 Law Enforcement Agencies Requesting Staff-Related Information

During regular office hours (or when the information is not required immediately), forward requests to Human Resources, who will attempt to contact the staff member before releasing their information. During off-hours, and only if the request is urgent, forward request to Clinical Nurse Leader, Clinical Coordinator or Leader on Call. Reasonable attempts should be made to contact the staff member before releasing their information. If attempts to reach them are unsuccessful, ensure they are contacted as soon as possible after the release is made.

Documentation: In the event information is released; complete form: *PHC-MR076: Request by Law Enforcement for Release of Information*, and forward to the Leader, Information Access and Privacy.

2.16 Subpoenas

For Staff to Attend as a Witness: Staff are required by law to comply with subpoenas to attend as a witness in a proceeding. If Staff have been subpoenaed in a proceeding related to a PHC patient/resident, Staff may consult with Risk Management for guidance. Staff may also allow Risk Management to accept the subpoena on behalf of the Staff member.

Patient/Resident Health Records: Health records must be specified in a court order. Forward to Health Records for processing.

2.17 Requests by Police or Coroner for Blood and/or Other Laboratory Specimens

Refer requestor to the Laboratory who will handle the request according to: *Policy for Release of Specimens to the Coroner or Police (Lab Policy)*.

2.18 Compliance

Staff must comply with this policy. If Staff is in a situation where they can not comply, they should contact Risk Management, the Information Access & Privacy Office, their Clinical Nurse Leader, Clinical Coordinator, or Leader on Call, for advice before disclosing any information.

Risk Management and Information Access & Privacy will monitor compliance with this policy.

3.0 Procedure

3.1 Staff

- In any situation where disclosure to Law Enforcement has been requested or may be required, Staff should consult with their Leader/Manager or the Leader on Call, Risk Management, or the Information Access & Privacy Office, for support and advice before disclosing any information.
- May approve or deny a request by Law Enforcement, in accordance with this policy.
- Staff should be able to identify situations where reporting is required by statute and where Staff become aware of such a situation they must act according to this policy.

3.2 Clinical Nurse Leader, Clinical Coordinator, Staff member in Charge or Leader on Call

If an issue arises outside business hours or if Risk Management or Information Access & Privacy is not available, the Clinical Nurse Leader, Clinical Coordinator, Staff member in charge or Leader on Call:

- Provides support and advice to Staff who have received a request for information on matters concerning disclosure to Law Enforcement.
- May approve or deny a request by Law Enforcement, in accordance with this policy.
- Provides support and advice to Staff who have identified a need to report a matter to Law Enforcement, in accordance with this policy.

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3.3 Risk Management

- Provides support and advice to Staff who have received a request for information on matters concerning disclosure to Law Enforcement.
- May approve or deny a request by Law Enforcement, in accordance with this policy.
- Provides support and advice to Staff who have identified a need to report a matter to Law Enforcement, in accordance with this policy.

3.4 Information Access & Privacy Office

- Provides support and advice to Staff who have received a request for information on matters concerning disclosure to Law Enforcement.
- May approve or deny a request by Law Enforcement, in accordance with this policy.
- Provides support and advice to Staff who have identified a need to report a matter to Law Enforcement, in accordance with this policy.

4.0 Supporting Documents and References

4.1 Related Policies

Abuse Policy
Alcohol and Illegal Substances – Inpatients at MSJ and SPH
Gunshot and Stab Wound Reporting
Search of Inpatient Rooms and/or Belongings – Inpatients at MSJ and SPH
Receipt and Disposition of Legal Documents Served at PHC

4.2 Related Standards / Forms / Guidelines

PHC-MR076 (Form): Request by Law Enforcement for Release of Information
[Illicit \(Suspected\) Drugs](#)

4.3 Definitions

For purposes of this policy:

“FIPPA” means the BC Freedom of Information and Protection of Privacy Act, as amended from time to time.

“Law Enforcement Agency” means an agency in Canada with authority to conduct a law enforcement investigation. Agencies with this authority include municipal police departments, RCMP, Canada Border Services Agency, and any other law enforcement or safety agency (e.g. WorkSafe BC).

“Legal Document” means any document that has been or will be filed in court, or any document that is generated by the court in a legal proceeding (e.g. court order, subpoena, production order, search warrant).

“Patients and Residents” mean all people receiving services from PHC. For ease of language, Clients and Assisted Living Tenants, are not specifically named but are implied in any reference to patient/resident.

“Personal Information” means any information about an identifiable individual but does not include business contact information, such as a person’s title, business telephone number, business address, email or fax number.

“Specific Law Enforcement Investigation” means a specific law enforcement investigation carried out by police or other Law Enforcement Agencies (refer to form PHC-MR076) that has an investigation file number.

“Staff” means all officers, directors, employees, physicians, dentists, midwives, nurse practitioners, residents, fellows, health care professionals, students, volunteers, researchers, contractors and other service providers engaged by PHC.

4.4 Keywords

Law enforcement, police, subpoena, warrant, court order, production order, release of information, personal information, privacy, belongings, investigation

4.5 Questions

Contact: Information Access and Privacy Office: privacy@providencehealth.bc.ca