

PRIVACY POLICY

PREAMBLE

While there is no definitive clarity with respect to whether Optimism Place and its employees fit the legal definition of a "health information custodian" (HIC) under PHIPA, the agency's over-arching commitment to transparency and best practices underscores the drafting of this policy and all of their policies and therefore incorporate the spirit, intent and principles of PHIPA.

INTRODUCTION

The Personal Health Information Protection Act (PHIPA), legislated in 2004 in the Province of Ontario, was designed to protect and safeguard the confidentiality of an individual's personal health information (PHI) and to outline the agency's professional obligations relative to ensuring the protection and safeguarding of such information. PHIPA defines PHI as information about an individual, in oral or recorded form, pertaining to the individual's physical or mental health including his or her health history as well as his or her family's health history.

The purpose of PHIPA is:

- To establish regulations for the collection, use and disclosure of PHI in a manner that protects the confidentiality of the information and the privacy of the individuals in question;
- To provide individuals with the right to access personal health information about themselves and to correct or amend such information, subject to certain exceptions;
- To provide independent review and resolution of personal health information complaints.

DEFINITIONS

The Act refers to "**Health Information Custodians**" (HICs) which is defined as health care practitioners, institutions and agencies. PHIPA sets out the manner in which HICs are to manage the personal health information of individuals to whom they provide services. PHIPA defines a HIC as an agency that has custody or control of personal health information as a result of performing the agency's powers or duties in its operation of a centre, program or service for community health or mental health whose primary purpose is the provision of health care which is further defined as any observation, examination, assessment, care, service or procedure that is done for a health-related purpose that is carried out or provided to diagnose, treat or maintain an individual's physical and mental condition to prevent disease or injury or to promote health.

While reference to "**Circle of Care**" is not made in the Act, it is a commonly used term within the health-care community and refers to provisions in the Act that permit HICs to assume a patient's/client's implied consent to collect, use and disclose personal health information to members of the health care team for purposes of providing care.

POLICY STATEMENT

Optimism Place respects the necessity of protecting the privacy of an individual's personal health information. Toward that end, the agency affirms its commitment to complying with the intent, spirit and principles of PHIPA in respect of collecting, using, sharing, protecting and safeguarding a client's personal health information.

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PRINCIPLES:

While PIPEDA (The Personal Information Protection and Electronic Documents Act) sets out principles related to fair information practices which set up the basic privacy obligations under the law, PHIPA does not. In the spirit of openness and transparency, the Agency is committed to the following principles and has adopted them in this policy and in practice.

- 1. Accountability** - Agencies should appoint someone to be responsible for privacy issues. They should make information about their privacy policies and procedures to available to customers.
- 2. Identifying purposes** - Agencies must identify the reasons for collecting your personal information before or at the time of collection.
- 3. Consent** - Agencies should clearly inform you of the purposes for the collection, use or disclosure of personal information.
- 4. Limiting collection** - Agencies should limit the amount and type of the information gathered to what is necessary.
- 5. Limiting use** - disclosure and retention - In general, agencies should use or disclose your personal information only for the purpose for which it was collected, unless you consent. They should keep your personal information only as long as necessary.
- 6. Accuracy** - Agencies should keep your personal information as accurate, complete and up to date as necessary.
- 7. Safeguards** - Agencies need to protect your personal information against loss or theft by using appropriate security safeguards.
- 8. Openness** - An Agencies privacy policies and practices must be understandable and easily available.
- 9. Individual access** - Generally speaking, you have a right to access the personal information that an agency holds about you.
- 10. Recourse** (Challenging compliance) – Agencies must develop simple and easily accessible complaint procedures. When you contact an agency about a privacy concern, you should be informed about avenues of recourse.

CONSENT:

Prior to collecting, using or disclosing PHI, the HIC is obliged to obtain the individual's consent in accordance with the following:

- that the consent is obtained from the individual or individual's substitute decision-maker
- that the individual reasonably understands the purpose of the collection, use and disclosure of the information and furthermore understands that he/she has the right to withhold or withdraw consent and the implications for doing so

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CONSENT (continued):

PHIPA states that consent must be either express or implied. The agency will obtain express consent in the form of a written, electronic or oral consent prior to the collection, use or disclosure of PHI.

PHIPA permits HICs to assume implied consent to collect, use or disclose health information, unless the individual states otherwise. The agency will rely on implied consent when the assumption has been made that the individual has given his/her consent to share health information in order to provide health care.

INFORMATION COLLECTED:

Clients are informed of the purpose for which information is being collected either prior to collecting information or contemporaneously.

Information is normally collected directly from clients. However, subject to prior consent and as authorized by law, information may be collected from other persons. Optimism Place obtains client consent for all uses and disclosures of their PHI, except for circumstances in which such uses or disclosures are permitted or required by law.

Optimism Place shall only collect information which is essential for the provision of service to clients and may include historical and current information relative to care and treatment which they have received as well as pertinent family health history.

Information collected may include:

- Tombstone data such as name, address & phone number
- Health card number
- Physical and mental health history
- Personal history
- Identity of substitute decision maker
- Identity of health care providers

Personal Health Information collected will be utilized for the following activities:

- Related only to the core services provided by the agency
- For service and/or treatment planning
- Facilitate collaboration within the client's "Circle of Care."
- Conduct risk assessment activities;
- Evaluate our services and programs;
- Research purposes (utilizing non-identifying information only);
- Comply with legal and regulatory requirements; and
- Fulfill other purposes permitted or required by law.

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SAFEGUARDING INFORMATION

All appropriate and reasonable steps are taken to protect the security of PHI from loss, theft, unauthorized use, disclosure, modification, copying or disposal. In the event of a breach of this policy, the agency will take steps to contain the breach, notify affected individuals and take all reasonable remedial actions. The agency utilizes appropriate physical, administrative and technical security measures to safeguard PHI. Appropriate safeguards are taken when destroying PHI.

Protecting the privacy of PHI is paramount and as such, staff are reminded to practice behaviour which is respectful of the privacy of client information. For example when viewing electronic documents or transporting sensitive client files or documents, care is to be taken to safeguard the confidentiality of such information.

Optimism Place retains PHI only as long as is reasonable to fulfill the purposes for which the information was collected or for legal or business purposes.

CLIENT ACCESS TO INFORMATION

Individuals have a right to access their PHI which is in the care and custody of the Agency subject to some exceptions. Information which originates from sources other than the Agency, for example reports or documents authored by other professionals, would be exempt or if access is unauthorized by law.

The Agency's Privacy Officer shall respond to requests for access to PHI within thirty (30) days of receipt of the request. The Privacy Officer will provide a written decision in response to the request. In the event that access is denied, the written response will include the reasons that such access has been denied

When a request for access to PHI has been approved, the Privacy Officer or her designate shall arrange a mutually convenient time to meet with the individual for purposes of reviewing the information requested. The Privacy Officer or her designate will provide a printed copy of the information to be shared with the individual and will be present when the individual reviews the information.

ACCURACY OF INFORMATION

Optimism Place is committed to ensuring that PHI is accurate, current and up-to-date as is necessary for the purpose for which the information is used relative to services. In the event that a client believes that their PHI is not accurate or is incomplete, they may request to have the information amended so as to correct the inaccurate or incomplete information. Such requests shall be made in good faith in writing to the Privacy Officer who will respond in writing within thirty (30) days.

PRIVACY BREACHES

A privacy breach is defined as non-consensual disclosure of a client's PHI to unauthorized individuals thereby constituting a breach of the Agency's Privacy Policy. The Privacy Officer will be immediately advised of the breach and will be accountable for notifying the client of the specifics of the breach and coordinating a timely investigative process.

The Agency is committed to resolving all issues related to breaches of this policy or any other concerns related to the privacy of their information. When such resolution is not successful, individuals may contact Anne McDonnell the Privacy Officer for Optimism Place is: Executive Director, 270 Freeland Drive, Stratford, Ont. N4Z 1B8 -519-271-5310 x12 amcdonnell@optimismplace.com