

AN1700 – Privacy & Security of Personal Health Information (replaces AN1700-Accountability for Personal Information)

Originating Date: P & P Committee, May 8, 2003

Revised Date: Quality & Safety Council March 2008; Chief Privacy Officer January 2009

POLICY STATEMENT

It is York Central Hospital's (YCH) policy to ensure that all transactions involving the use of personally identifiable patient information respect the privacy rights of individuals. Personal Health Information (PHI) must 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. YCH recognizes its duty to comply with the Ontario Personal Health Information Protection Act, 2004 ("PHIPA").

APPLICATION

This policy applies to all York Central Hospital employees, medical staff, students, volunteers, members, officers, directors, researchers, instructors, agents, vendors, contractors, consultants and related entities including the YCH Foundation, research institutions and others who, on behalf of or for the purposes or benefit of YCH, collect, use, disclose or have access to personal health information, as defined below, which is in the custody or control of YCH.

DEFINITIONS

Agent - a person that, with the authorization of YCH (the health information custodian), acts for or on behalf of the organization in respect of personal health information for the purposes of YCH and not the agent's own purposes, whether or not the agent has the authority to bind the custodian, and whether or not the agent is employed by YCH .

- Examples of agents of YCH include, but are not limited to: employees, medical staff, students, volunteers, members, officers, directors, researchers, instructors, agents, vendors, contractors, consultants.

Health Information Custodian - a person or organization, such as a hospital, who has custody or control of personal health information as a result of the work they do. As a Public Hospital, York Central Hospital is considered to be a Health Information Custodian.

Personal Health Information (PHI) - information about an individual whether living or deceased and whether in oral or recorded form, that can identify an individual and that relates to matters such as the individual's physical or mental health, the provision of healthcare to the individual, payment or eligibility for health care for individual, the donation by the individual of a body part or bodily substance and the individual's health number. Personal health information can also be information about a physician or other care provider, a hospital staff member, a patient, or a patient's family member.

- Examples of personal health information include but are not limited to: the patient's name, medical record number, health insurance number, address, telephone number and personal health information related to a patient's care such as blood type, genetic information, x-rays, consultation notes, etc.

AN1700 – Privacy & Security of Personal Health Information

(replaces AN1700-Accountability for Personal Information)

Originating Date: P & P Committee, May 8, 2003

Revised Date: Quality & Safety Council March 2008; Chief Privacy Officer January 2009

Record of Personal Health Information – PHIPA defines a record as personal health information in any form or in any medium, whether in written, printed, photographic or electronic form or otherwise. Any information in a health record in the custody or control of YCH, the YCH Health Records Department, YCH Physician offices and YCH departmental clinics (as per the Public Hospitals Act, Reg.965, s.20.3) includes, but is not limited to:

- Patient name, medical record (Y) number, health insurance number, address, telephone number
- All the names of clinical staff involved in the patient's care, films, slides, diagnoses, discharge summaries, progress notes, transcribed reports, orders, consents, electronic images and photographs
- Any information that has been scanned where the electronic copy (scanned version) is the official copy or source documentation for patient care and research purposes
- Any information and/or medical images in hard copy or in the Picture Archiving and Communication System (PACS)
- Any information in the YCH clinical desktop, including information from other systems with an inbound and outbound interface
- Any information in other YCH clinical systems that are integrated into the YCH clinical desktop, including, but not limited to: Horizon Patient Folder, McKesson HBO, Physician Portal, PMBS, etc.

POLICY

1.0 Accountability for Personal Information

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

1.1 Accountability: Accountability for YCH's compliance with this policy and with PHIPA rests with the CPO, even though other individuals within YCH 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, YCH must comply with this policy.

1.2 Responsibilities: The CPO is an agent of YCH 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 from an individual for access to or correction of a record of their personal health information that is in the custody or control of the hospital; and
- e) receive and respond to complaints from the public about any alleged contravention of this policy or of PHIPA generally by the Hospital.

AN1700 – Privacy & Security of Personal Health Information

(replaces AN1700-Accountability for Personal Information)

Originating Date: P & P Committee, May 8, 2003

Revised Date: Quality & Safety Council March 2008; Chief Privacy Officer January 2009

- 1.3 Public Record of Contact Person:** The identity of the CPO and the individual(s) designated by YCH 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** following. The Chief Privacy Officer can be contacted via telephone at 905-883-1212, or via email at privacy@yorkcentral.on.ca, or via regular mail to the Chief Privacy Officer, York Central Hospital, 10 Trench Street, Richmond Hill, ON L4C 4Z3
- 1.4 Openness:** YCH will be open about its information practices with respect to the management of personal health information. Individuals will be able to acquire information about YCH privacy policies and practices without unreasonable effort. This information will be made available in a generally understandable form.
- 1.5 Description of Information Practices:** A written statement will be made available to the public that:
- a) provides a general description of YCH’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 YCH and to the Information Privacy Commissioner of Ontario.
- If YCH uses and discloses PHI without consent in a manner that is outside the scope of this description, YCH shall:
- e) inform the individual at the first available opportunity unless the individual does not have a right of access under PHIPA; and
 - f) keep a note of the “other” uses and disclosures as part of the record.
- 1.6 Third Party Confidentiality Contracts:** YCH is responsible for personal health information in its custody or control, including information that has been disclosed under contract. YCH 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:** YCH 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

YCH will identify the purposes for which personal information is collected at or before the time that the information is collected. Personal health information may 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 (*See Section 4.0*) 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 YCH to

AN1700 – Privacy & Security of Personal Health Information (replaces AN1700-Accountability for Personal Information)

Originating Date: P & P Committee, May 8, 2003

Revised Date: Quality & Safety Council March 2008; Chief Privacy Officer January 2009

determine the information it needs to fulfill these purposes. 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 the circumstances suggest otherwise, it is reasonable to believe that an individual knows the purposes of the collection, use or disclosure of personal health information about that individual by the hospital if YCH has a) posted a notice describing the purposes where it is likely to come to the individual's attention or b) provides the individual with such a notice.

2.3 Subsequent Notification: Where YCH 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: YCH 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 YCH;
- 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, YCH 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

AN1700 – Privacy & Security of Personal Health Information

(replaces AN1700-Accountability for Personal Information)

Originating Date: P & P Committee, May 8, 2003

Revised Date: Quality & Safety Council March 2008; Chief Privacy Officer January 2009

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, YCH 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. YCH maintains extensive policy governing consent through *AN0500-Consent to Treatment* and *HISJ0001-Releasing Information Guidelines* policies which are incorporated into this policy by reference, and which should be consulted for specific instances of YCH 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:** YCH 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, YCH 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. YCH 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,

- (a) the purposes of the collection, use or disclosure, as the case may be; and
- (b) that the individual may provide or withhold consent.

AN1700 – Privacy & Security of Personal Health Information
(replaces AN1700-Accountability for Personal Information)

Originating Date: P & P Committee, May 8, 2003

Revised Date: Quality & Safety Council March 2008; Chief Privacy Officer January 2009

YCH 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: YCH 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 YCH 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 YCH'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, YCH 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 YCH's collection, use or disclosure shall not prohibit or restrict YCH 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 YCH on the individual's behalf, and YCH 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.

AN1700 – Privacy & Security of Personal Health Information

(replaces AN1700-Accountability for Personal Information)

Originating Date: P & P Committee, May 8, 2003

Revised Date: Quality & Safety Council March 2008; Chief Privacy Officer January 2009

- 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 YCH 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 YCH 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 *HISJ0001-Releasing Information Guidelines*

3.4.3 Assumption of Validity: Where YCH 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, YCH 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

YCH 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.

AN1700 – Privacy & Security of Personal Health Information (replaces AN1700-Accountability for Personal Information)

Originating Date: P & P Committee, May 8, 2003

Revised Date: Quality & Safety Council March 2008; Chief Privacy Officer January 2009

- 4.1 Limited collection:** YCH 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. YCH 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 YCH 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. YCH 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 YCH 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 *HISJ0001-Releasing Information Guidelines*.

- 5.2 Authorized Disclosure:** Disclosure of patient information is generally governed by *HISJ0001-Releasing Information Guidelines* and should be consulted for specific instances of disclosure policy and procedure. YCH may generally disclose personal health information about an individual to:
- a) a health information custodian outside of YCH 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 YCH, 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;

AN1700 – Privacy & Security of Personal Health Information

(replaces AN1700-Accountability for Personal Information)

Originating Date: P & P Committee, May 8, 2003

Revised Date: Quality & Safety Council March 2008; Chief Privacy Officer January 2009

- 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 YCH or a health information custodian within YCH 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*

AN1700 – Privacy & Security of Personal Health Information
(replaces AN1700-Accountability for Personal Information)

Originating Date: P & P Committee, May 8, 2003

Revised Date: Quality & Safety Council March 2008; Chief Privacy Officer January 2009

- 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 YCH 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: YCH’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 *AN0900-Records Retention Policy*.

5.3.1 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 YCH 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.

5.3.2 Custodian: YCH 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.

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: YCH 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 YCH at the

AN1700 – Privacy & Security of Personal Health Information

(replaces AN1700-Accountability for Personal Information)

Originating Date: P & P Committee, May 8, 2003

Revised Date: Quality & Safety Council March 2008; Chief Privacy Officer January 2009

time of the disclosure, unless limits to the requirements for accuracy are clearly set out by the procedural policy governing the specific transaction. YCH 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.

YCH maintains policy governing the integrity and security of patient information in *HISP105-Deficiency Management – Electronic Signatures* and *HISJ0001-Releasing Information Guidelines* policies. YCH 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. 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.

7.3 Employee Awareness: YCH recognizes the importance of maintaining the confidentiality of personal information and currently maintains policies appropriate for this including, but not limited to this policy and *HISJ0001-Releasing Information Guidelines; HISG400-Physician Records Completion; HISG401-Completion of Health Records Guidelines; and HISJ0005-Releasing Information – Faxing Patient Information* policies. All YCH agents are contractually obliged to comply with these policies for the purposes of ensuring patient personal health information privacy rights.

7.4 Handling, Disposal and Anonymization: YCH’s record retention and disposal policies have been established as in 5.3 above. Care will 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.

7.5 Notice of Loss: At the first reasonable opportunity, YCH shall notify the individual at the individual’s last known address or phone number, depending on the method of notification

AN1700 – Privacy & Security of Personal Health Information

(replaces AN1700-Accountability for Personal Information)

Originating Date: P & P Committee, May 8, 2003

Revised Date: Quality & Safety Council March 2008; Chief Privacy Officer January 2009

chosen, if the individual's personal health information has been lost, stolen or accessed by unauthorized persons unless otherwise required by law.

7.5.1 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 YCH, the researcher shall not notify the individual unless YCH 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

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

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

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

- a) provides a general description of YCH'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 YCH; and
- d) describes how to make a complaint to YCH and to the Information Privacy Commissioner under PHIPA.

8.3 Availability: YCH will make information on its privacy policies and practices available in a variety of ways, including brochures and posters in patient care areas and on-line information available on the Hospital's website (<http://www.yorkcentral.on.ca>). In addition, the Chief Privacy Officer will be available to answer questions from the public.

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 also be able to challenge the accuracy and completeness of the information and may request to have it amended.

9.1 Limitations: In certain circumstances, YCH 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 *HISJ0001-Releasing Information Guidelines*. The reasons for denying access will be provided to the individual upon request.

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

- a) quality of care information;

AN1700 – Privacy & Security of Personal Health Information

(replaces AN1700-Accountability for Personal Information)

Originating Date: P & P Committee, May 8, 2003

Revised Date: Quality & Safety Council March 2008; Chief Privacy Officer January 2009

- 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;
- 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 YCH 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, YCH 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, YCH may withhold the information and give written notice to the individual stating that YCH 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 appropriate YCH Health Records release of information fee schedule.

9.3 Identification Requirements: An individual may be required to provide sufficient information to permit YCH 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, YCH 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, YCH will provide a list of the organizations to which it may have disclosed information about the individual.

9.5 Reasonable Response: YCH 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 YCH 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

AN1700 – Privacy & Security of Personal Health Information

(replaces AN1700-Accountability for Personal Information)

Originating Date: P & P Committee, May 8, 2003

Revised Date: Quality & Safety Council March 2008; Chief Privacy Officer January 2009

required, the requested information will be provided or made available in a form that is generally understandable to the requestor. YCH will provide professional interpretation of the terminology, code or abbreviation used in the record at the individual's request.

- 9.6 Correction/Amending:** YCH maintains policies that allow for the amendment to patient personal health information in *HISP105-Deficiencies Management-Electronic Signatures* and *HISJ0100-Correction to Personal Health Information* policies. When an individual to whom YCH 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 YCH that the record is incomplete or inaccurate for the purposes for which YCH uses the information and has given YCH the information necessary to make the correction, YCH 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:** YCH 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 will 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;
 - a) require that the statement be attached to the record and disclosed whenever the relevant information is disclosed;
 - b) require YCH to make all reasonable efforts to disclose to persons to whom a correction would have been disclosed; and
 - c) make a complaint to the Office of the Information and Privacy Commissioner of Ontario.
- 9.8 Written Notice:** At the request of the individual, YCH 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, YCH 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.

AN1700 – Privacy & Security of Personal Health Information

(replaces AN1700-Accountability for Personal Information)

Originating Date: P & P Committee, May 8, 2003

Revised Date: Quality & Safety Council March 2008; Chief Privacy Officer January 2009

10.0 Challenging Compliance with YCH'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 Documented Procedures: YCH 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 YCH'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 YCH staff and other departments on a confidential basis as required in order to resolve the complaint.

10.2 Accessibility: The complaint procedures will be easily accessible and simple to use. YCH 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.

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

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