



KWANLIN DÜN FIRST NATION

HEALTH INFORMATION PRIVACY

MANAGEMENT ACT (HIPMA) POLICIES

SEPTEMBER 2017

HIPMA POLICIES

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Access to Personal Health Information

1. SCOPE

1.1 Authority

Yukon's *Health Information Privacy and Management Act* (HIPMA) (s.24) governs access to personal health information and contains provisions relevant to release of records.

1.2 Application

This policy and associated documents apply to all Kwanlin Dün First Nation Health Centre employees.

1.3 Purpose

This policy sets out criteria and the process for responding to applications for access to personal health information held by Kwanlin Dün First Nation Health Centre. It applies to individuals making application for their own information and to people who are authorized to act on behalf of another individual (e.g., a parent, legal guardian, substitute decision-maker, or lawyer).

This policy will provide a common and consistent approach to providing individuals access to their personal health information.

1.4 Background

With limited and specific exceptions, an individual has a right of access to their personal health information that is the custody or under the control of Kwanlin Dün First Nation Health Centre. The application should be made in writing and contain sufficient detail to enable Kwanlin Dün First Nation Health Centre to identify the personal health information requested.

1.5 Definitions

Health Information means identifying information of an individual, in recorded or unrecorded form, relating to the individual's health, provision of health care, payments for health care, donation of body parts, tissue or bodily substance, or testing, or as otherwise defined in Yukon's *Health Information Privacy and Management Act*.

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Access to Personal Health Information (cont'd)

Personal health information means health information and registration information of an individual and prescribed provider registry information in respect of the individual, as defined in Yukon's *Health Information Privacy and Management Act*.

2. POLICY STATEMENT

2.1 General

Under Yukon's *Health Information Privacy and Management Act*, individuals have a right to obtain access to their personal health information contained in records in the custody or control of Kwanlin Dün First Nation Health Centre. This right extends to individuals who have the legal authority to access records for another person (e.g. parent, legal guardian, or a person acting on the individual's behalf and authorized in writing).

Applications for personal health information should be directed to the Kwanlin Dün First Nation HIPMA Privacy Officer at 867-668-7289 (ext. 214) or by email at kdfn.hipma@kdfn.net

3. STEPS FOR RESPONDING TO AN APPLICATION FOR ACCESS TO PERSONAL HEALTH INFORMATION

3.1 Validate the Request

Verify the identity of the requestor through proof of identity. View, but **do not** copy photo ID. Match demographic information [e.g. date of birth; mailing address]

The request may be made in writing by completing an Application for Access to Personal Health Information form.

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Access to Personal Health Information (cont'd)

3.2 Confirm Authority to Access Information (s.45)

- If the request is from an individual claiming to have authority to act on behalf of another individual, verify their legal authority.
- For example, if the request is from a parent/legal guardian of the child, verify the parent's or legal guardian's legal authority.
- Please refer to the Consent Policy attached as Appendix A

4.0 Response to an Access Request (s.26)

A custodian must respond to an application within 30 calendar days after receiving it. The 30 days includes weekends and statutory holidays.

The time period may be extended by an additional 60 days if:

- completing the work within the initial 30 days will unreasonably interfere with operations, or
- consultations are advisable before determining whether or how to comply with the request.

If a custodian is not able to respond to the applicant within the first 30 days the custodian must tell the applicant:

- the reason for the extension,
- when the individual can expect the records, and
- the applicant can make a complaint to the Information and Privacy Commissioner.

Once work has been completed on the application, the custodian must either:

- make the requested information available by allowing the applicant to examine it or by providing a copy of the information to the applicant,
- inform the applicant that the request is refused and, pursuant to s.27, also inform of the reason for the refusal, and the applicant's right to

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Access to Personal Health Information (cont'd)

make a complaint to the Information and Privacy Commissioner regarding the refusal.

Note: 27(1) of *HIPMA* lists the limited circumstances where a custodian **must** refuse an individual access to the individual's information. Section 27(2) lists the circumstances where a custodian may refuse access.

- inform the applicant that the record requested does not exist or cannot be found, or
- notifying the applicant of the identity of any other custodians whom the custodian reasonably believes may have custody or control of the requested information.

If made available, copies of information will be provided to the requestor:

- **in person, or**
- **by registered mail only.**

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Appendix A

Consent Form

Each client must give informed consent in order to receive health care services from the Kwanlin Dun Health Centre.

Intake, information, referral, support, and outreach services may be offered to persons without obtaining formal informed consent based upon their initiation of or request for these limited services.

COMMENTARY

Informed consent for health care services requires competence and information, and must be voluntary.

COROLLARIES

Informed consent by whom?

1. Services provided by Counselling Services to more than one person at the same time (e.g., conjoint or family therapy) require the informed consent of all persons involved.
2. Authorization to consent on behalf of another person may be conferred legally (e.g., guardianship of an adult judged incapable of managing his/her own affairs) or by virtue of a parent-child (or caregiver-child) relationship subject to the restrictions below. The Kwanlin Dun Health Centre will adhere to the following policies regarding informed consent pertaining to children and adolescents:
 - a) For children under the age of 12 with two custodial parents in an intact family, either parent may consent to the child receiving health care services through Kwanlin Dun Health Centre.
 - b) For children under the age of 12 with two custodial parents who have legal joint custody, either parent may consent to the child receiving health care services through Kwanlin Dun Health Centre. Consideration should be given to also seeking the consent of the other parent, so long as this is in the best interest of the child. In cases in which

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the best interest of the child is unclear, it is the responsibility of the health care provider to consult with the child, parent(s), and colleagues.

- c) For children under the age of 12 with one parent having legal custody, that parent may consent to the child receiving health care services through Kwanlin Dun Health Centre. Consideration should be given to also seeking the consent of the other parent, so long as this is in the best interest of the child. In cases in which the best interest of the child is unclear, it is the responsibility of the health care provider to consult with the child, parent(s), and colleagues.
- d) For children under the age of 12 with a recognized caregiver having legal custody, that person may consent to the child receiving health care services through Kwanlin Dun Health Centre. Consideration should be given to also seeking the consent of the parents, so long as this is in the best interest of the child. In cases in which the best interest of the child is unclear, it is the responsibility of the health care provider to consult with the child, caregiver(s), and colleagues.
- e) For children under the age of 12 living with one parent but with no legal custody agreement/order, that parent may consent to the child receiving health care services through Kwanlin Dun Health Centre. Consideration should be given to also seeking the consent of the other parent, so long as this is in the best interest of the child. In cases in which the best interest of the child is unclear, it is the responsibility of the health care provider to consult with the child, parent(s), and colleagues.
- f) For children under the age of 12 living with a recognized caregiver, but with no legal custody agreement/order, that person may consent to the child receiving health care services through Kwanlin Dun Health Centre. Consideration should be given to also seeking the consent of the parents, so long as this is in the best interest of the child. In cases in which the best interest of the child is unclear, it is the responsibility of the health care provider to consult with the child, caregiver(s), and colleagues.
- g) For children under the age of 12 taken into care by the Department of Family and Children's Services, the Department's representative must consent to the child receiving health care services through Kwanlin Dun Health Centre.
- h) Adolescents between the ages of 12 and 18 will vary in their competence to give informed consent depending upon their level of intelligence, degree of maturity, and other related factors. Rather than determine competence to give informed consent solely on the basis of chronological years, Counselling Services at Kwanlin Dun Health Centre recognizes that the capacity of the adolescent to understand and appreciate the nature and consequences of consent for health care services must be assessed in each individual case. If the adolescent's competence to give informed consent is doubtful, a

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second opinion should be sought from a colleague. In cases in which the adolescent is assessed to be incompetent to give informed consent, consent for the adolescent to receive health care services must be given in accordance with policies for children under the age of 12.

3. Sometimes the circumstances of a client's life change such that the person authorized to give informed consent on the client's behalf also changes (e.g., a change in custody of a child client). In these cases, the KDFN health care provider should obtain informed consent for the client's health care services from the newly authorized person.

Who is competent to give informed consent?

4. Competence to give informed consent on behalf of self or another requires the capacity to understand and appreciate the nature and consequences of that consent for health care services.
5. From a clinical perspective, competence to give informed consent is not an all-or-nothing concept, but rather a continuum. Thus, while legally adults are presumed competent until the contrary is demonstrated (i.e., through an incapability assessment, as per the Adult Protection and Decision-Making Act), clinically, it may be useful to include others (e.g., trusted family member, supportive caregiver) in the informed consent process with adults who appear cognitively compromised.

What information is required in order for consent to be "informed"?

6. Informed consent for health care services requires the provision of as much information as a reasonable person would want prior to giving consent. This information must be provided to and understood by the person giving consent for services. At minimum the following information should be understood:
 - a) The purpose and nature of the health care services to be provided
 - b) The responsibilities of the counsellor and client
 - c) Confidentiality protection and limitations
 - d) The likely benefits and risks of the health care services to be provided
 - e) Alternatives to counselling
 - f) The likely consequences of not participating in counselling

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- g) The option to request a different counsellor, or to refuse or withdraw from counselling at any time, without penalty or obligation
- 7. It is acknowledged that these points might not all be addressed in an initial session; however, it is usually in the client's best interests to have information on these topics early in the counselling process. Consequently, if the health care provider opts to not address one or more of these points, the rationale for this decision should be documented on the client's file, and the information should be provided as soon as is practical.
- 8. Informed consent is essential at the outset of health care services, but the process of seeking informed consent also continues throughout the counselling process. This is especially important if either the goals or the methods of the counselling are altered.
- 9. In those cases in which informed consent must be given by a person other than the client (e.g., the client is a child under the age of 12), such information about health care services as can be understood must be provided to the client.

What does it mean for informed consent to be voluntary?

- 10. Informed consent must be voluntary. This must be assessed in each individual case rather than assumed by virtue of the person's presentation requesting health care services through Kwanlin Dun Health Centre; in many cases assessment of voluntariness will affect the goals of services rather than the provision of health care services per se (e.g., when one spouse 'sends' the other spouse to 'get help', assessment of voluntariness will likely influence the nature of the 'help' provided).
- 11. In those cases in which informed consent must be given by a person other than the client (e.g., the client is a child under the age of 12), the client's voluntariness must still be assessed. The client's own goals and/or refusal to receive health care services must be taken seriously such that the client is accorded meaningful participation in the decision-making that applies to his/her life. In those cases in which there is conflict between the request by the person who must give informed consent for health care services to be provided and the client's goals/willingness to receive services, it is the responsibility of the counsellor to:
 - a) fully explore the matter with all concerned parties in an attempt to reach a mutually satisfactory agreement and if not successful,
 - b) seek consultations from a colleague regarding resolution of this conflict in the best interest of the client.

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Collection of Personal Health Information Policy

1. SCOPE

1.1. Authority

Yukon's *Health Information Privacy and Management Act (HIPMA)* (s.52 to s.54) governs the collection of personal health information and contains provisions relevant to direct and indirect collection of personal health information.

1.2. Application

This policy and associated documents apply to all Kwanlin Dün First Nation Health Centre employees and other agents.

1.3. Purpose

This policy outlines when the Kwanlin Dün First Nation Health Centre may collect personal health information in accordance with the *Health Information Privacy and Management Act*.

2. DEFINITIONS

Collection means to gather, acquire, receive or obtain by any means from any source. (s.2) (Does not include the transmission of information between a custodian and their agent.)

Indirect Collection means to collect information from a source other than the individual the information is about.

Health Information means identifying information of an individual, in a recorded or unrecorded form that relates to: the individual's health; provision of health care; payments for health care; donation of body parts, tissue or substance of an individual, or testing. (s.2)

Express Consent is not required to be in writing. However, if express consent is given verbally, the custodian who receives the consent must record it.

Implied Consent is not stated verbally or in writing, but can be assumed by the individual's actions. For example, an individual who enters the ER for treatment is giving their implied consent for the ER doctor to access their medical records for the purpose of providing treatment.

HIPMA POLICIES

Collection of Personal Health Information Policy (cont'd)

Personal Health Information means health information of an individual and prescribed registration information and prescribed provider registry information in respect of the individual (s.2).

3. POLICY STATEMENT

The Kwanlin Dün First Nation Health Centre will only collect the minimum amount of personal health information (PHI) necessary to achieve the purpose of the collection (s.16). For example, a provider treating a sprained ankle would not collect information about appendectomy.

The Kwanlin Dün First Nation Health Centre will make every reasonable effort to ensure the personal health information collected at the time is accurate (s.52).

3.1. Collection

The Kwanlin Dün First Nation Health Centre may collect an individual's PHI if:

- it is necessary for a lawful purpose and the individual consents (s.53(a));
or
- the collection is authorized by law (s.53(b))

Express consent from the individual is required for:

- fundraising activities;
- use in research or marketing when using identifiable information, or
- use in the media, including radio, television, internet, and social media.

3.2. Indirect Collection

Generally, the Kwanlin Dün First Nation Health Centre will collect PHI from the individual the information is about. However, indirect collection may occur if an exception applies.

Some exceptions include, but are not limited to:

- if the individual consents (para.54(a)).
- the PHI is required and it is believed that collecting the PHI directly from the individual would:

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Collection of Personal Health Information Policy (cont'd)

- would prejudice the purpose for collection (e.g. the individual may withhold important information) (para. 54(b));
- delay in collecting the information directly would impact care (e.g. individual is unconscious and needs emergency care) (54(b));
- the information may not be accurate (e.g. individual has dementia); or
- would not be reasonably practicable in the circumstances (e.g. individual is recovering from surgery and PHI is collected from spouse) (54(b)).

Questions regarding the collection (direct and indirect) of personal health information should be directed to Kwanlin Dün First Nation Health Centre Privacy Officer.

Phone: 867-668-7289 ext. 214

or email: kdfn.hipma@kdfn.net

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Disclosure of Personal Health Information Policy

1. SCOPE

1.1 Authority

Yukon's *Health Information Privacy and Management Act (HIPMA)* (s.57-59) governs the disclosure of personal health information.

1.2 Application

This policy and associated documents apply to all Kwanlin Dün First Nation Health Centre employees, agents, and volunteers of Kwanlin Dün First Nation Health Centre, in their handling of PHI.

1.3 Purpose

This policy outlines the permitted disclosures of personal health information Kwanlin Dün First Nation Health Centre may make, in accordance with the *Health Information Privacy and Management Act*.

1.4 Definitions

Personal Health Information (PHI), as defined by *HIPMA* (s.2), is recorded or unrecorded information relating to an individual's:

- health or healthcare;
- payment for healthcare;
- plans for donation of organs, tissue, or body substance;
- test results, including genetic testing or examination of any body part.

Consent must be (s.38):

- knowledgeable;
- related to the PHI, and
- given voluntarily and not obtained by fraud or misrepresentation.

Express consent is not required to be in writing. However, if express consent is given verbally, the custodian who receives the consent must record it.

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Disclosure of Personal Health Information Policy (cont'd)

2. POLICY STATEMENT

2.1 General

Kwanlin Dün First Nation Health Centre will limit the amount of Personal Health Information (PHI) disclosed to the minimum amount reasonably necessary to achieve the purpose for the disclosure (S. 16).

Disclosures of PHI will not be made if other information will serve the purpose of the disclosure (S.15).

Disclosures of PHI may occur with or without the consent of the individual, as outlined in the following sections.

2.2 Disclosures Requiring Express Consent

Express consent from the individual is required:

- To an insurance company {NB: the Act is silent on disclosures to insurance companies, however it is best practice to seek consent}
- For fundraising activities;
- For use in research or marketing when using identifiable information, or
- For use in the media, including radio, television, internet, and social media.

If the individual has consented to a disclosure to the Minister, the Department, or the Yukon Hospital Corporation of personal health information, of the individual, that is required for the provision of health care to the individual, then Kwanlin Dün First Nation Health Centre must disclose the PHI in accordance with the consent. (s.57 (2) & Reg.19)

2.3 Disclosures not requiring consent

As outlined in HIPMA, Kwanlin Dün First Nation Health Centre may disclose an individual's PHI without the consent of the individual in specific circumstances (s.58). Below is a list of common disclosures without the consent of the individual. For any other situations or requests for disclosures, contact Kwanlin Dün First Nation Health Centre Privacy Officer.

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Disclosure of Personal Health Information Policy (cont'd)

- a) Disclosures to a **Healthcare Service Provider** may occur without the consent of the individual in the following situations:
- Providing healthcare to an individual unless they have expressly refused or withdrawn their consent.
 - Ex: A patient comes into the ER. The patient says “do not tell Dr. Smith I’m here because she is friends with my mom”. The Doctor is not permitted to disclose any information to Dr. Smith.
 - Determining or assessing the individual's capacity.
 - Determining or verifying eligibility to receive health care or other related services.
 - Administering payment for health care or other related goods or services.
 - Carrying out the individual's wishes in relation to organ and tissue donation, or
 - Preventing fraud or abuse of the healthcare system.
- b) Disclosures to **Family or Close Personal Relation** may occur without the individual's consent in the following situations:
- To contact a substitute decision-maker or a potential substitute decision-maker.
 - Where the individual is deceased or believed to be deceased:
 - Identification of the deceased,
 - Circumstances surrounding the death or healthcare received by the individual prior to their death,
 - Health planning for surviving relatives, or
 - To the personal representatives for the administration of the deceased's estate or claims under insurance.
- c) Disclosures at the **request of Law Enforcement** may occur without individual consent in the following situations: To comply with a federal or territorial warrant or subpoena:
- if the PHI relates to a possible offence under Yukon or Canadian law, or
 - to assist in locating a person reasonably believed to be missing.

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Disclosure of Personal Health Information Policy (cont'd)

- d) Kwanlin Dün First Nation Health Centre may disclose to **Law Enforcement**:
- If there is a reasonable belief that the disclosure will prevent or reduce a risk of serious harm, or will enable the assessment of whether there is a risk, or
 - To comply with other Yukon or Canadian laws for mandatory disclosure

Prior to disclosure Kwanlin Dün First Nation Health Centre staff may confer with the privacy contact individual to ensure that legal documents are in order. Any questions should be directed to Kwanlin Dün First Nation Health Centre legal counsel.

- e) Disclosures to a **Government and Government Agent or Body** may occur without the individual's consent in the following situations:
- to the Minister, the Department, and the Government of Yukon for purposes of planning and management of the health system.
 - to a branch, operation, or program of a Yukon First Nation for the purposes of planning and management of that First Nation's health system.
 - to the Canadian Institute of Health Information, or
 - to an official of a custodial institution for the purpose of providing healthcare, or making decisions regarding placement into custody, detention, conditional release, discharge or conditional discharge of the individual.

Kwanlin Dün First Nation Health Centre making information available on the **Yukon Health Information Network** is not considered a disclosure under HIPMA.

- f) Disclosures for the **Purpose of Research** may occur without the individual's consent in the following situations:
- The research has been approved by an institutional review committee; and,
 - Kwanlin Dün First Nation Health Centre and the researcher have made an agreement in writing that the researcher must (s.69 and Reg. S.22):
 - maintain technical and physical safeguards to protect PHI,

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Disclosure of Personal Health Information Policy (cont'd)

- destroy or remove any identifying information as soon as possible and consistent with the research,
- not make any disclosures of the PHI without Kwanlin Dün First Nation Health Centre authorization,
- not publish any personally identifiable PHI,
- use the PHI solely for the purpose of approved research,
- permit the custodian to monitor the researchers compliance with the agreement, and provide the necessary information to do so,
- refrain from contacting the individuals who are the subject of the research,
- notify the custodian immediately if they become aware of a breach of the agreement,
- comply with any conditions specified by the institutional research review, and
- on termination of the agreement, deal with the information as outlined in the agreement with the custodian.

2.4 Recording Requirements

If disclosing without consent Kwanlin Dün First Nation Health Centre Kwanlin Dün First Nation Health Centre must keep a record of the following information:

- Name of person disclosed to
- Date and purpose for the disclosure
- Brief description of the PHI disclosed

Any questions should be directed to Kwanlin Dün First Nation Health Centre Privacy Officer. Contact: 867-668-7289 ext. 114

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Security Breach Policy

1. SCOPE

1.1 Authority

Yukon's Health Information Privacy and Management Act (HIPMA) (Part 3, Division 5, s 29 to 31).

1.2 Application

This policy and the associated documents apply to all employees of the Kwanlin Dün First Nation Health Centre.

1.3 Purpose

The purpose of this policy is to provide rationale and procedures to identify, contain and notify the affected individuals of real or suspected breaches. This policy will also allow the Kwanlin Dün Health Centre to respond quickly in a coordinated manner, identify roles and responsibilities and the process for an effective response.

1.4 Background

HIPMA establishes rules for the collection, use, disclosure or and access to PHI that protect its confidentiality, privacy, integrity and security. (Health Information Privacy and Management Act Part 3 Divisions 1, 3 and 4). A breach occurs if there is a theft or loss of information or unauthorized disclosure of, or access to, PHI contrary to HIPMA.

Breaches include, but are not limited to:

- misdirected faxes, emails or mail
- looking up information of neighbours, friends, family, staff and other individual without a job related purpose
- theft, loss or disappearance of electronic or paper based records
- inappropriate destruction of PHI information
- being overheard discussing PHI of a client in a public setting
- with someone who does not need to know
- sharing a story with identifying client information on social media without consent

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Security Breach Policy (cont'd)

1.5 Definitions

Health information means identifying information of an individual, in a recorded or unrecorded form that relates to: the individual's health or the provision of health care to them; payments for health care; donation of body parts, tissue or substance of an individual, or that is derived from testing (Health Information Privacy and Management Act s 2(1))

Personal health information (PHI) means health information of an individual and prescribed registration information and prescribed provider registration information in respect of the individual (Health Information Privacy and Management Act s 2(1))

Confidentiality means the obligation to protect the secrecy of information entrusted to you and not to misuse it.

Privacy means is the right of an individual to control access to his or her information.

Security means the technologies and methods used to protect the confidentiality, integrity and availability of information, both in electronic and paper format, while the information is being used, stored or transferred.

1.6 Principles

- The Kwanlin Dün Health Centre must manage personal information in a privacy-protective manner in compliance with HIPMA.
- An individual's right to protection of personal health information when collected by Kwanlin Dün Health Centre.
- Kwanlin Dün Health Centre transparency in how it protects personal health information.
- Obligation to provide notification of privacy breach in certain circumstances.
- Continuous improvement.

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Security Breach Policy (cont'd)

2. POLICY STATEMENT

The Kwanlin Dün Health Centre takes very seriously its responsibility to protect PHI. If an employee believes a breach has occurred in relation to PHI, it is considered a breach and the breach must be reported immediately to the

Kwanlin Dün HIPMA Privacy Officer at 867-668-7289 (ext 214) (*Health Information Privacy and Management Act* para. 29 (a)).

The Kwanlin Dün HIPMA Privacy Officer is responsible for following the Kwanlin Dün Health Centre's Privacy Breach Protocol (Appendix 1) and completing the Breach Report (Appendix 2).

Removing personal health, confidential or sensitive information from Kwanlin Dün premises

Every precaution must be taken to avoid security breaches. If there is a demonstrated need for personal or sensitive health information to be taken out of the Health Centre, the staff member must abide by the following procedures:

- The staff person must be authorized to remove the personal health information (PHI) from the Health Centre. This authorization may be in the form of their job description (e.g., transporting samples to WGH is part of the staff person's routine duties). Otherwise authorization requires the completion of the "Authorization to Remove PHI from the Health Centre" form by their manager or by the Director of the Health Centre.
- PHI is to leave the Health Centre only if that is essential. Sometimes the necessity for PHI to leave the Health Centre is clear (e.g., blood samples going to the WGH lab); the only way what is necessary can be achieved involves the removal of PHI from the Health Centre. In all other cases, the necessity for the PHI to leave the Health Centre must be clearly explained on the "Authorization to Remove PHI from the Health Centre" form completed by the manager or Director.

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Security Breach Policy (cont'd)

- PHI leaving the Health Centre in an electronic form must be password protected or encrypted.
- PHI leaving the Health Centre in a hard copy must be transported in a locked briefcase.
- PHI that is outside of the Health Centre must be kept in a secure setting, preferably with the employee, but if that is not always possible in a locked home, office, or vehicle.
- PHI that is outside of the Health Centre must be used in a secure setting, where other persons cannot see, hear, or otherwise access the information.

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Use of Personal Health Information Policy

1. SCOPE

1.1 Authority

Yukon's *Health Information Privacy and Management Act* (HIPMA) (s 55-56) governs the use of personal health information.

1.2 Application

This policy and associated documents apply to all Kwanlin Dün Health Centre employees and agents.

1.3 Purpose

This policy outlines the permitted Uses of Health Information Kwanlin Dün Health Centre has in their custody or control.

This policy outlines when Kwanlin Dün Health Centre and its agents may use personal health information in their custody or control, in accordance with the Health Information Privacy and Management Act.

1.4 Definitions

Use means the handling or dealing with personal health information and the information sharing between a custodian and their agent. (s 2)

Health information means identifying information of an individual, in a recorded or unrecorded form that relates to: the individual's health; provision of health care; payments for health care; donation of body parts, tissue or substance of an individual, or testing (Health Information Privacy and Management Act s 2(1))

Personal health information (PHI) means health information of an individual (Health Information Privacy and Management Act s 2(1)) 2

Agent means an employee, volunteer, student, information manager, or contractor who acts for or on behalf of the custodian in respect to the PHI.

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Use of Personal Health Information Policy (cont'd)

Consent must be (s 38):

- knowledgeable;
- related to the PHI, and
- given voluntarily and not obtained through fraud and misrepresentation.

Express Consent is not required to be in writing. However, if express consent is given verbally, the custodian who receives the consent must record it.

Implied Consent is not stated verbally or in writing, but can be assumed by the individual's actions. For example, an individual who enters the ER for treatment is giving their implied consent for the ER doctor to access their medical records for the purpose of providing treatment.

Health Care means any activity that includes any service, assessment, care, or procedure related to the prevention of disease, rehabilitative or palliative care, or the diagnosis, or treatment of an individual's mental or physical condition. Under this definition health care also extends to the compounding, dispensing or selling of a drug, device, or equipment as medically prescribed to the individual.

2. POLICY STATEMENT

2.1 General

The Kwanlin Dün Health Centre will limit the amount of Personal Health Information (PHI) used to the minimum amount reasonably necessary to achieve the purpose for the use (s16). PHI is understood to include mixed records.

2.2 Use Requiring Consent

Kwanlin Dün Health Centre may use PHI for providing healthcare to the individual, unless that individual has expressly refused or withdrawn their consent.

Express consent from the individual is required for:

- fundraising activities;
- use in research or marketing when using identifiable information, or
- use in the media, including radio, television, internet, and social media.

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Use of Personal Health Information Policy (cont'd)

2.3 Use Not Requiring Consent

The Kwanlin Dün Health Centre may use the individual's PHI without consent in the following situations:

- a) Use for a legally prescribed purpose:
 - if the PHI is available to the public, or
 - in accordance with an enactment of Yukon or Canada, or a treaty arrangement that permits the use.

- b) Use for the Patient care:
 - for the purpose of reducing or assessing the risk of serious harm to the individual or others,
 - for assembling a family or genetic history of the individual,
 - for determining or carrying out the individual's wishes regarding organ, tissue, or bodily substance donation,
 - if the individual is deceased:
 - to identify the deceased, and
 - for informing any person who it is reasonable to inform that the individual is deceased.
 - to determine, assess, or confirm capacity.

- c) Use for Kwanlin Dün First Health Centre's program maintenance and delivery:
 - to educate agents in respect to the provision of the healthcare,
 - to determine eligibility for service if Kwanlin Dün First Nation collected the PHI when processing the application, and if the individual is participating in the program or is receiving the health care, good, or service,
 - to manage, auditing Kwanlin Dün First Nation healthcare activities;
 - carry out quality improvement,
 - to modify (including de-identifying) dispose, or destroy the PHI, and
 - for the purpose of payment for a service, good, or program of Kwanlin Dün Health Centre.

- d) Use for legal purposes:
 - for a proceeding or a contemplated proceeding in which the Kwanlin Dün Health Centre or an agent are or are expected to be a party or a witness and the PHI relates to the proceeding or contemplated proceeding, or

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Use of Personal Health Information Policy (cont'd)

- for the prevention, detection, or investigation of a fraud or suspected fraud or abuse or the healthcare system.

Authorized access to the Yukon Health Information Network (YHIN) is a use, and not considered a collection or disclosure under HIPMA (s 82). Unless there an authorized consent directive in place, consent is not required to access YHIN.

A custodian may use PHI already in its custody and control for research (s 67).

Any questions should be directed to Kwanlin Dün HIPMA Privacy Contact:

Phone: 867-668-7289 ext. 214 or

Email kdfn.hipma@kdfn.net

HIPMA POLICIES

HIPMA FORMS

HIPMA POLICIES

APPLICATION FOR ACCESS TO PERSONAL HEALTH INFORMATION

About You

Last Name _____	First Name _____
Mailing Address _____	City/Town _____
Territory/Province _____	Postal Code _____
Date of Birth (YYYY-MM-DD) _____	
Contact Number (daytime) _____	Contact Number (Evening) _____
Fax Number _____	Email Address (Optional) _____

About your request

Do you want to: (check one) ___ receive a copy of the records, OR ___ examine the record

About the information you want to access

What records do you want to access? Please give as much detail as possible. If you need more space, please attach a separate sheet of paper.

What is the time period of the records? Please give specific dates. (See reverse for details)

Your Signature _____

Signature

_____ Date (YYYY-MM-DD)

For Authorized Office Use Only	
_____	___ Identification
Verified	
Date Activated (YYYY-MM-DD)	
_____	___ Fee Estimate
Provided	
Reference #	

HIPMA POLICIES

APPLICATION FOR ACCESS TO PERSONAL HEALTH INFORMATION

How to complete this form

If you need help completing this form, the Kwanlin Dün First Nation HIPMA Privacy Officer can assist you.

About you

Enter your last name and first name, complete mailing address and your daytime and evening telephone numbers. The Kwanlin Dün First Nation HIPMA Privacy Officer may need to contact you if they have any questions about your request.

About your request

1. If you are making a request for your own personal health information you will have to provide proof of your identity before the records are released to you. For example, we may ask to view a piece of photo identification or ask you some questions. If you are requesting records for another person, you will have to provide proof that you have the authority to act for that person. For example, you might provide proof that you are the person's guardian or trustee or that you have power of attorney for the person.
2. Do you want to receive a copy of the records or examine the records? Check the appropriate box.

About the Information you want to access

1. What personal health information are you requesting? Please be as specific as possible in describing the records. The more specific your request, the quicker and more accurately it can be answered. If you need more space, please continue your description on a separate sheet of paper and attach it to this request form.

Please be sure that you give:

- your full name;
 - any other names that you have previously used, and
 - any identifying number that relates to the records, such as your personal health care card number, case number or other identification number.
2. Enter the time period of the requested records. For example, if you are requesting records for the period January 1, 1998 to August 31, 1999 enter those dates in the space provided. If you want records from August 1996 to the present, enter "August 1996 to the present."

HIPMA POLICIES

APPLICATION FOR ACCESS TO PERSONAL HEALTH INFORMATION

Your signature

Sign and date the form and send it to the Kwanlin Dün First Nation HIPMA Privacy Officer.

Contact Information:

Kwanlin Dün First Nation HIPMA Privacy Officer
35 McIntyre Drive
Whitehorse Yukon Y1A 5A5

Phone: 867-668-7289 ext. 214

Email: kdfn.hipma@kdfn.net

HIPMA POLICIES

BREACH PROTOCOL

What is the purpose of the protocol?

This protocol is designed to assist Kwanlin Dün First Nation Health Centre employees by defining the process to manage breaches. This protocol will provide guidance on:

- timelines when managing breaches,
- determining risk of harm, and
- notification including who, when and how notification should occur.

What is a breach? (Health Information Privacy and Management Act (HIPMA) Part 3 Divisions 1, 3, 4)

A breach occurs if there is a theft or loss of information or unauthorized disclosure of, or access to, personal health information (PHI) contrary to HIPMA.

Breaches include, but are not limited to:

- misdirected faxes, emails or mail,
- looking up information of neighbours, friends, family, staff and other individual without a job related purpose,
- theft, loss or disappearance of electronic or paper based records,
- inappropriate destruction of PHI information,
- being overheard discussing PHI of a client in a public setting with someone who does not need to know, and
- sharing a story with identifying client information on social media without consent.

STEP 1: Contain the Breach

Recommended Timeline: Immediately

Immediately stop the unauthorized practice, recover the records and/or shut down or correct weaknesses in physical security.

If uncertain whether a breach has occurred, contact the Kwanlin Dün First Nation HIPMA Privacy Officer at 867-668-7289 ext. 214.

STEP 2: Notify the Kwanlin Dün First Nation HIPMA Privacy Officer

Recommended Timeline: Same day the breach is discovered.

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All breaches, real or suspected must be reported immediately to the Kwanlin Dün First Nation HIPMA Privacy Officer who will complete the Breach Reporting Form and determine who will be the lead in conducting the investigation.

STEP 3: Determine the risk of harm to affected individuals

Recommended timeline: Within five working days after breach was discovered

The Kwanlin Dün First Nation HIPMA Privacy Officer or delegate completes section 2 of the Breach Reporting Form.

Refer to the Breach Reporting Form, question 2.3 to assist in determining the sensitivity of the information and the risk of harm.

STEP 4: Notification

Recommended timeline: Within 2–3 weeks after breach was discovered

The Kwanlin Dün First Nation HIPMA Privacy Officer will determine whether notification is required or appropriate. Use the parameters outlined in question 2.4 of the Breach Reporting Form when making this determination.

Determining likelihood of significant harm.

If there is a likelihood of significant harm, affected individuals **MUST** be notified as soon as reasonably possible. (Health Information Privacy and Management Act ss.30(1))

In addition, Yukon's Information and Privacy Commissioner must be notified and within a reasonable timeframe, receive a written report that:

- assesses the risk of harm to individuals,
- estimated number of individuals affected,
- measures taken to reduce risk of harm to individuals; and (Health Information Privacy and Management Act para. 30(2)(b)) and s. 31).

Determining there is not a likelihood of significant harm.

If it is determined that there is not a likelihood of significant harm, Kwanlin Dün First Nation is not obliged to notify affected individuals or the Yukon's Information and Privacy Commissioner. However, best practice is to develop a mitigation strategy to prevent similar future breaches.

HIPMA POLICIES

BREACH REPORTING FORM

1. Containment of breach

Name of Custodian: _____ Reported by: _____
Date breach occurred: _____ Date breach was discovered: _____
(YYYY-MM-DD) (YYYY-MM-DD)

1.1 Has there been a breach involving “personal health information”?

A breach occurs if there is a theft or loss of information or unauthorized disclosure of, or access to, PHI contrary to HIPMA. Some examples of situations where a breach occurred are:

- misdirected faxes, emails or mail,
- looking up information of neighbours, friends, family, staff and other individuals without a job related purpose,
- theft, loss or disappearance of electronic or paper based records.

Answer:

If you determined a breach has occurred, list the types of information involved. (Refer to Appendix A)

1.2 List the immediate containment actions

Some examples of containments actions are:

- Immediately recovering the information and have recipient confirm - in writing - that no copies of the information were made, the information was not and will not be communicated, and all copies have been securely destroyed,
- Shutting down the system that was breached,
- Revoking or changing computer access code, or
- Contacting the Kwanlin Dün First Nation HIPMA Privacy Officer.

HIPMA POLICIES

BREACH REPORTING FORM

Answer:

2. Risk of harm

2.1 What is the cause and extent of the breach?

Include the following when answering:

- What is the cause of the breach?
- Is there a risk of ongoing or further exposure of the information?
- Was the information lost or stolen?
- Is the information encrypted?
- Is there a suspicion of malicious intent behind the breach?
- How much information (# of documents or amount of data) was involved in the breach?

Answer:

2.2 How many individuals are affected?

Consider the following when responding:

- Very few (less than 10)
- Identified and limited group (>10 and <50)
- Large number of individuals affected (>50)
- Numbers are not known

HIPMA POLICIES

BREACH REPORTING FORM

Answer: _____

2.3 What is the sensitivity of the information and what type(s) of harm could occur?

PART 1 — Determine the Sensitivity of the Information

Types of **highly sensitive** information: SIN, date-of-birth, driver's license number, credit card numbers, signatures, medical information (psychiatric or addiction counselling notes, for example), employee information (poor performance or termination information, for example). This is not an exhaustive list.

Types of **low or moderately sensitive** information: names, phone numbers, email addresses, and bank accounts. This is not an exhaustive list.

PART 2 — Determine Harm

Harm to the individual:

- Risk of identity theft: Most likely when the breach includes loss of SIN, credit card number, driver's licence number, debit card information, a combination of name, date-of-birth and address, etc.
- Risk of physical harm: When the information places the individual at risk of physical harm from stalking or harassment.
- Risk of hurt, humiliation, and damage to reputation: Often associated with the loss of information such as mental health records, medical records, criminal history or disciplinary records.
- Loss of business or employment opportunities: Where the breach could affect the business reputation of an individual.

Harm to the organization:

- Risk to organization: Where the organization is concerned that the breach will undermine trust of citizens, loss of assets, financial exposure or contractual and/or legal obligations.

HIPMA POLICIES

BREACH REPORTING FORM

Answer:

2.4 What is the likelihood that significant harm could result?

Consider all of the following:

- The length of time between the breach and its discovery,
- The likelihood that there has been any disclosure, unauthorized use or copying of the information,
- The information available regarding the individual's circumstances,
- The likelihood that the information could be used for identity theft or identity fraud,
- The number of other individuals whose information is or may be similarly affected,
- The relationship between the affected individuals and any individuals who has accessed the information. (This is a factor in a small jurisdiction such as the Yukon.),and
- The immediate containment measures taken.

3. Notification

3.1 Will affected individuals be notified? If not, why not?

Note: If there is a risk of significant harm you must notify the affected individuals, while at the same time give the Office of the Information and Privacy Commissioner a copy of the notice.

When notifying affected individuals, your notice must include:

- A description of the circumstances of the breach and the information involved,
- Indicate when the breach occurred,
- Describe the measures, if any, that has been taken to reduce the risk of harm to the individual as a result of the breach, and
- Identify who can be contacted within your organisation with questions.
- Notify individuals of their right to complain to the Office of the Information and Privacy Commissioner.

HIPMA POLICIES

BREACH REPORTING FORM

Answer:

4. Prevention

4.1 Describe the physical security safeguards in place.

Describe only those safeguards which relate to the breach. For example: locked cabinets, securely stored laptops, key card access to the building, etc.

Answer:

4.2 Describe the technical security safeguards in place.

Describe only those safeguards which relate to the breach. For example: document encryption, user access profiles assigned and removed on a need-to-know basis, etc.

Answer:

4.3 Describe the administrative security safeguards in place.

Describe only those safeguards which relate to the breach. For example, what security policies will be used to ensure the personal information is protected, what training or procedures are in place so users are aware of access rules.

Answer:

HIPMA POLICIES

BREACH REPORTING FORM

4.4 What internal improvements to processes, systems, policies, and any other actions to mitigate recurrence are recommended? What is the timeline for implementation?

The recommended solutions should address any necessary improvements needed to physical, technical and administrative safeguards to reduce future breaches.

Answer:

Personal Information and Personal Health Information listing

Note: This is not an exhaustive list of personal information and/or personal health information.

✓	General Personal Information	✓	Unique Identifiers
	name		Social Insurance Number (SIN)
	address		Driver's Licence Number
	phone number		YHCIP# (or other health care number)
	email address		other
	date of birth		Social Insurance Number (SIN)
	age	✓	Personal Financial Information
	gender		credit card number
	criminal record, status or history		bank account number
	anyone else's opinions about the individual		income tax information
	the individual's views or opinions		financial status or history
	religious beliefs or associations		other
	country of origin	✓	Personal Health Information
	ethnic or racial origin		health care status or history
	political beliefs or associations		test results, medical images
	marital status		medications
	family information or status		diagnosis
	visually recorded information		disability
	(e.g. photo or video of an individual)		other
	educational information (status or history)		
	employment information (status or history)		
	fingerprint		
	other		
	name		

HIPMA POLICIES

RECORD OF USER ACTIVITY FORM

Under the *Health Information Privacy and Management Act (HIPMA)* (ss.24 (3)), individuals have the right to obtain to a record of user activity, which is a record of all authorized users who have looked an individual's personal health information stored in Kwanlin Dün Health Centre's computer systems.

In order to best assist you in your request, please provide as much of the following information as possible:

Section 1: Identity of the Individual whose Record of User Activity is being Requested		
First Name	Last Name	
Yukon Health Care Insurance Plan (health card) number or Date of Birth (DD/MM/YYYY)		
Address	City/Town	Postal Code
Phone Number	Email Address	
If you are acting on behalf of another individual as their substitute decision-maker, please complete Section 2. If you are requesting your own personal health information, go to Section 3.		

Section 2: Substitute Decision-Maker Information		
First Name	Last Name	
Address	City/Town	Postal Code
Phone Number	Email Address	
<input type="checkbox"/> I am the substitute decision-maker and authorized to make decisions on the individual's behalf.		

HIPMA POLICIES

RECORD OF USER ACTIVITY FORM

Section 3: Information Being Requested

The Kwanlin Dün Health Centre uses the following systems to store PHI which can generate a record of user activity.

- Health Centre Management System (HCMS) – for all Health Centre clients: includes name, date of birth, gender, FN status, next of kin, contact information, and services received (by date, nature of service, length of time, location, and provider).
- Panorama – for people who have received immunizations: includes personal information similar to HCMS as well as YHCIP no., allergies, immunization history, any adverse reactions.
- Plexia – only for KDFN doctors’ patients: includes patient information similar to HCMS as well as YHCIP no., medical profile (problems, allergies, medications), doctor’s visits and notes, referrals, test results (lab, X-ray).

Record should show access for the past: 1 year 2 Years 3 Years

Record should show access between the dates of _____ and _____.

Section 4: Record Delivery Method

Choose one:

- I will pick up the Records in person
- I wish for the Records to be mailed to me at the following Address:

Section 5: Authorization

All of the information provided in this form is accurate to the best of my knowledge, and I understand that I may be required to provide documentation confirming my authority to access this Record if I am not the individual the information is about.

X _____.

Signature of Authorized Individual

Date (MM/DD/YYYY)

HIPMA POLICIES

RECORD OF USER ACTIVITY FORM

Section 6: OFFICE USE ONLY	
Date Request Received:	Received by:
Requestor Identity Verified by: <input type="checkbox"/> Photo ID <input type="checkbox"/> Other method _____	
Date Records Provided:	Provided by:
Identity Verified for pickup by: <input type="checkbox"/> Photo ID <input type="checkbox"/> Other method _____ <input type="checkbox"/> Record was mailed	