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**FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT (FIPPA)**

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<b>Approved by:</b> Board of Directors	<b>Effective Date:</b> Mar. 5, 2013	B-05
<b>Issued By:</b> Administration	<b>Review Date:</b> Nov. 17, 2016	
<b>Department(s)</b> All	<b>Version:</b> 2	Archived: Y

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**POLICY:**

To facilitate right of access to all records under the custody or control of the hospital, subject to the limited and specific exceptions set out in the Freedom of Information and Protection of Privacy Act (FIPPA 1990).

**PURPOSE:**

The Lennox and Addington County General Hospital (LACGH) will respond to requests made by the public under the Freedom of Information and Protection of Privacy Act (FIPPA 1990). When an official request is made, the hospital will make every effort to respond within the proscribed 30 day timeframe. The hospital will work to ensure that the only requests that will qualify for release under the Act are processed and personal health information is protected at all times.

Any staff or person affiliated with LACGH who willfully makes false statements or attempts to mislead or obstruct a person's exercising powers under FIPPA, or destroys/erases information in a Record will be subject to disciplinary action.

Access requests will not be granted for information that:

- Applies to personal health information that is covered under the Personal Health Information Protection Act (PHIPPA) (with limited exceptions)
- Pertains to information protected under the Quality of Care Information Protection Act (QCIPA 2004)
- That contains information pre-2007
- Are employment and labour relations records or are employment related matters
- Are religious records
- Are deemed to be vexatious or frivolous
- Administrative/employment records of a member of a regulated health professional, including the hospital's medical staff
- Third party information that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied to or belonging to the hospital in confidence as described in *the Act* (Section 17)

The requester will be notified in writing if an extension is required or the access request is being refused. Records of all requests will be retained by the hospital and used to compile an annual report, as it is required by legislation.

**RESPONSIBILITY:**

It is the responsibility of LACGH's entire staff to produce and keep track of all records.

Chair of the Board – The person accountable for all requests and is responsible for the information requests and is disclosed only as authorized. All FOI access requests are delegated by the Chair of the Board to the Chief Financial Officer. If the Chief Financial Officer is not reasonably available (for example, due to illness or vacation), then the powers and duties shall be delegated to the President & CEO until the Chief Financial Officer is reasonably available.



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The Department Leads are responsible for finding records.

**PROCEDURE:**

**1. Receiving the Request**

a) Staff will:

- Direct anyone wishing to submit a request for information under the *Freedom of Information and Protection of Privacy Act* to the Chief Financial Officer.

b) The Requester will:

- Submit the request in writing using the Access/Correction Request Form;
- Provide sufficient detail to enable an experienced employee of the hospital to identify the record(s) requested; and
- Include the \$5 application fee (i.e. a cheque is made payable to “Lennox and Addington County General Hospital”).

c) The Chief Financial Officer will:

- Stamp the date on the request;
- Open a new file for the request;
- Assign a unique identifier to the file so that it can be retrieved easily;
- Note the deadline to respond to the requester, and any other time periods, in the file;
- Note whether, on its face, the request concerns information that is not subject to FIPPA;
- Inform the requester and offer assistance in reformulating an unclear request;
- Promptly contact the requester to discuss the nature and scope of a broadly worded request, and the possibility of narrowing the request;
- Verify the identity of a requester submitting a personal information request, and document the manner in which the identity of the requester was verified.

**2. Processing the Request**

a) General Procedures

i) The Chief Financial Officer will:

- Identify the specific files and data banks that should be searched through consultations with department leads who likely would have records pertaining to the FOI request, or with other personnel who were or are responsible for the relevant records or the general subject matter of those records;
- Review relevant records for possible exemptions;
- Respond to requests within the time limits imposed by the Act, which generally is within 30 calendar days;
- Forward the request along with the application fee within 15 calendar days of date of receipt to the appropriate FIPPA institution if the request is for records that are not in the hospital’s custody or control, and provide written notice of this action to the requester (*Note: the 30 calendar day time limit continues from the time the complete request was received by the first institution*);



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- Transfer the request within 15 calendar days of date of receipt to the FIPPA institution which has the greater interest in the requested record, and provide written notice of this action to the requester (*Note: the 30 calendar day time limit continues from the time the complete request was received by the first institution*);

ii) Departmental Leads will:

- Conduct a search for the relevant records upon request from the Chief Financial Officer, and document details of the search on the Records Search and Retrieval Form;
- Advise the Chief Financial Officer of any portions of the requested records that may be sensitive in nature or may be subject to an exclusion or an exemption.

b) Requests Affecting a Third Party

If an affected party has an interest in records that are relevant to a Freedom of Information request:

i) The Chief Financial Officer will:

- Give written notice to the affected third party within the initial 30-day period after the request is received; said notice will include:
  - A statement that the hospital has received a request for access to a record or part of a record that may affect the interests of the affected party;
  - A description of the contents of the record or the part that relates to the affected party;
  - A description of the relevant exemptions under the Act that relate to the affected party;
  - A statement that the affected party may consent to all or part of the record, or may, within 20 days, make written representations as to why the record (or parts of the record) should not be released.
- Provide notice to the requester of the expected delay if it is unlikely that the hospital will be able to process a request within the initial 30-day period; said notice will contain:
  - A statement that the record (or part of a record) may affect the interests of another party;
  - A statement that the affected party has the right to make written representations to the hospital concerning the disclosure of the record; and
  - A statement that a decision will be made if the record or part of the record will be released within 30 days after the notice is given.

If the affected party makes any representation that the record (or parts of it) should not be disclosed, and, the hospital disagrees:

i) The Chief Financial Officer will:

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- Provide notice to the requester and the affected third party that:
  - The Hospital has decided to disclose the record or part thereof;
  - The person to whom the information relates may appeal the decision to the Information and Privacy Commissioner of Ontario within 30 days after the notice is given; and
  - The requester will be given access to the record or part unless an appeal of the decision is commenced within 30 days after the notice is given.

**3. Fees**

a) General Procedures

i) The Chief Financial Officer will:

- Calculate the fee for processing the request in consultation with departmental leads;
- Advise the requester of any applicable fees in connection with the request, and include a detailed breakdown of those fees;
- Require the requester to pay the fees prior to the release of the requested records.

b) If the fee estimate is \$100 or more

i) The Chief Financial Officer may:

- Calculate a fee estimate for processing the request in consultation with departmental leads based on a review of a representative sample of the records and/or the advice of knowledgeable hospital staff who are familiar with the type and content of the records;
- Issue an interim decision letter which will include a fee estimate and comments about the likely level of disclosure;
- Require the requester to pay a deposit of up to 50% of the amount of the estimate before taking any further steps to respond to the request.

ii) Departmental Leads will:

- Conduct a search for a representative sample of records upon request by the Chief Financial Officer and document details of the search on the Records Search and Retrieval Form

c) Waiving Fees

If the requester asks for a waiver, the Chief Financial Officer will:

- assess whether a request to waive fees is fair and equitable after considering:
  - Whether, and by how much, the actual cost of processing, collecting, and copying the record varies from the estimated amount;
  - Whether payment of the fee will cause a financial hardship to the requester – generally, the requester must provide details to establish this (which may include information about income, assets, and expenses);
  - Whether the requester is to be given access to the record;

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- If the amount of a payment would be \$5 or less, whether that amount is too small to justify requiring payment; and
- Whether releasing the record will benefit public health or safety.
- Respond to the requester in writing.

**4. Decision**

a) The Chief Financial Officer will:

- Issue to the requester, within the allowable time period, a decision letter communicating one of the following for each requested record:
  - Indicate there are no relevant records or assert no records exist;
  - Grant complete access to the record;
  - Grant partial access to the record and refuse access to the remainder of the record based on stated exclusions and exemptions;
  - Refuse access to the entire record based on stated exclusions or exemptions;
  - Advise that the requested record cannot be disclosed under the Freedom of Information process because the subject matter is excluded from the Act; or
  - Refuse to confirm or deny the existence of a record.

**DEFINITIONS:**

**Control** – Does not mean having the actual physical possession of the record but rather the power or authority to make a decision about the use or disclosure of the record.

**Custody** – Means the keeping, care, watch, preservation or security of the record for a legitimate purpose.

**Personal Information** – Means recorded information about an identifiable individual, including:

- Information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
- Information relating to the education or medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
- Any identifying number, symbol or other particular assigned to the individual,
- The address, telephone number, fingerprints or blood type of the individual,
- The personal opinions or views of the individual except where they relate to another individual
- Correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence



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- The views or opinions of another individual about the individual, and
- The individual’s name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual.

Personal Information does *not* include

- Information about an individual who has been dead for more than 30 years;
- References to employees in records generated in the normal course of business;
- An individual’s name (on its own). To be personal information within the meaning of FIPPA, the name must be associated with other personal information; or
- Business information.

Personal Representative – An executor named in a deceased will, power of attorney or a court appointed administrator of a person’s estate

Record – Means any record of information however recorded, whether in printed form, on film, by electronic means or otherwise

Requester – A person seeking access to a record shall,

- Make a request in writing to the hospital that the person believes has custody or control of the record;
- Provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record; and

At the time of making the request, pay the fee prescribed by the regulations for that purpose 1996, c. 1, Sched. K, s. 2.

Responsibility – All medical, clinical staff and temporary employees are subject to this act.

Third Party - Any individual, corporation, partnership, or other legal entity that is affected by a Freedom of Information request because they have an interest in the records relevant to that request.