



Health and Social Services Recording Device Policy

Policy Statement

A consistent approach is required to ensure the Department of Health and Social Services and Health and Social Services Authorities comply with the *Health Information Act* when a recording device is used, that collects and records personal health information in a manner that may not be obvious to the individual whose information is being collected.

Scope

This Policy applies to all employees of the Department of Health and Social Services and Health and Social Services Authorities who use recording devices to collect personal health information.

Definitions

The following terms apply to this Policy:

“Employee” for the purpose of this Policy means all individuals employed by the Department or HSSA including salaried, contracted, or locum health practitioners and individuals whose positions are federally funded.

“Health and Social Services Authority (HSSA)” means the Territorial Health and Social Services Authority established under section 5(1), a Board of Management established under section 10(1) or referred to in subsection 10.2 or 10.3 of the *Hospital Insurance and Health and Social Services Administration Act*, or an organization, agency or firm contracted by the Minister pursuant to section 17 of the *Hospital Insurance and Health and Social Service Administration Act*.

“Personal health information” means information in any form that identifies an individual, or in respect of which it is reasonably foreseeable in the circumstances that the information could be used, either alone or with other information to identify and individual:

- a) information about the health and health care history of an individual,
- b) information respecting health services provided to an individual,

- c) information about eligibility or registration of an individual for a health service or related product or benefit,
- d) information about the payment for a health service for an individual,
- e) information collected in the course of providing a health service to an individual or information that is collected incidentally to the provision of a health service to an individual, including the individual's name and contact information,
- f) a personal health number, other identifying number, symbol or other particular assigned to an individual in respect of health services or health information,
- g) prescribed information about a health service provider that provides a health service to an individual,
- h) information respecting the donation by an individual of a body part or bodily substance,
- i) Information prescribed as personal health information in the Health Information Regulations.

"Recording device" means a device used to create a record of personal health information regardless of medium or form in a not obvious manner, i.e. when information is recorded in a way that is not easily perceived or self-evident. This may include but is not limited to:

- Audio recorders
- Cameras
- Smart phones /tablet (eg. iphone, iPad, Surface)
- Telemedicine, telehealth / virtual care platform(s)/applications
- Web and network platform(s) used for health and social services

Provisions

1. The Department/HSSA Employee that collects personal health information directly from the individual in a manner **that may not be obvious using a recording device** must inform the individual that the recording will be made with the device prior to using the device.
2. The Department/HSSA Employee that collects personal health information using a recording device must:
 - take all and necessary precautions to ensure the security and protection of the individual's privacy, or other person's privacy, in the course of taking the recording;
 - protect the collected personal health information in accordance with the *Health Information Act* and HSS privacy policies; and
 - follow existing records management procedures.
3. Personal health information about an individual collected using a recording device must be included as a part of their individual record (whether in electronic or paper form).

- If using a recording device for the purpose of training, mentorship or clinical supervision of a counsellor or a health professional, the recording is **not** placed on the individual's record.
4. Recording devices used to collect personal health information must:
- be approved by the Department/HSSA
 - have privacy safeguards, as required by the *Health Information Act* and *Health Information Regulations*, and
 - be tested and staff to be trained on the functionality of the device prior the use.

Exception

5. The Department / HSSA Employee does not have to inform the individual when a recording device will be used to collect personal health information in the following instances:
- a device records information in an obvious manner, such as medical equipment (diagnostic imaging: X-ray, CAT scan, magnetic resonance imaging); and/or
 - the individual cannot be informed in advance of using the device (e.g. recordings of trauma care and individual is unconscious). In these cases, recordings may be made, but the individual must be informed when reasonably possible.

Authority and References

Health Information Act

Ministerial Directive 2023-04: Privacy Standards, Policies and Standards

Electronically Stored and Transferred Information Policy

Consent Conditions Policy

Community Counseling Program Recording Devices Standards

<original signed by>

Deputy Minister

April 24, 2023

Date