



## 16.0 Information Management

### 16.6 Privacy and Confidentiality

#### 16.6.1 Maintaining Respect for Individuals and their Personal Information when Staff and Physicians undertake Recording Activities in Island Health Facilities and Service Areas

### 1.0 Purpose

Respect of individuals is reflected in Island Health's C.A.R.E values which states "**R**espect: to value each individual and bring trust to every relationship"<sup>1</sup>. Island Health is committed and obligated to provide an environment that respects and promotes individuals' personal and information privacy rights and that is a safe workplace, free from harassment and intimidation such as unwarranted recording activities. This policy instructs:

- a. staff, physicians, and other agents of Island Health, ("Staff and Physicians") of their responsibilities when they collect information about each other or Island Health patients, clients, residents or other members of the public ("People") or their interactions, in whole or in part, by photographing, video- or audio-recording them ("Recording Activities") in Island Health facilities and other service areas; and
- b. Staff and Physicians to align their conduct in respect of Recording Activities with applicable requirements under provincial law and regulation, Island Health values and policy, information management and practice standards.

### 2.0 Policy Statement

Staff and Physicians who obtain information about others or their interactions through Recording Activities in facilities or settings where Island Health is providing care or services, are collecting personal information under the BC *Freedom of Information and Protection of Privacy Act*<sup>2</sup> (FIPPA) and the BC *Privacy Act*<sup>3</sup>. As such, the information they collect about individuals is subject to the privacy rights and protections of each law.

<sup>1</sup> <https://intranet.viha.ca/values/Pages/default.aspx>

<sup>2</sup> [http://www.bclaws.ca/EPLibraries/bclaws\\_new/document/ID/freeside/96165\\_00](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/96165_00)

## 2.1 Staff and Physicians:

- who engage in Recording Activities will do so in a manner that respects Peoples' and other Staff and Physicians' personal and information privacy rights under law and maintains a safe care, service and work environment;
- who obtain information through Recording Activities will only collect, use, and share or otherwise manipulate that information for purposes permitted under the primary authority of the *FIPPA* and as authorized under other laws in BC and Canada in support of fulfilling the vision, mission, values and mandate of Island Health. Specific permitted purposes are set out in Island Health's "Patient, Client and Resident" and "Employee" Notices<sup>4</sup>, collectively called a Permitted Care or Service Activity of Island Health<sup>5</sup>;
- will ensure, *within their respective roles*, that their Recording Activities are limited to that *necessary* and *required* to provide a Permitted Care or Service Activity as part of their Island Health-approved role and responsibilities;
- will only use Island Health issued and/or approved equipment and devices for such Recording Activities;
- may, in some cases, be additionally required to obtain consent of the individual(s) being recorded (e.g. when collecting and using personal information for certain research or educational activities), and will obtain individual informed consent as required, before engaging in Recording Activities<sup>6</sup>;
- who consider or undertake Recording Activities must ensure that the purpose is fully explained to the People or Staff and Physicians who are the subject of the Recording Activities so as to provide them with informed notification and, if additionally required, to obtain informed consent. The nature of and mechanisms to obtain informed consent are specific to the Permitted Care or Service Purpose being performed; as such, the requirements to achieve informed consent are dependent upon the individual situation<sup>7</sup>; and
- are individually responsible under the BC *FIPPA*<sup>8</sup> to safeguard the information privacy<sup>9</sup> of their patients, clients and residents and, if collected, that of other Staff and Physicians.

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<sup>3</sup> [http://www.bclaws.ca/EPLibraries/bclaws\\_new/document/ID/freeside/00\\_96373\\_01](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96373_01)

<sup>4</sup> See Appendices A and B respectively for the full list of permitted purposes

<sup>5</sup> As additionally outlined in policy 16.1.1 Information and Data Governance, section 2.0

<sup>6</sup> For assistance with determining consent obligations for the situation, refer directly to the Information Steward (Director and Medical Director) associated with your program area.

<sup>7</sup> Resources available, in addition to your Information Steward(s), to assist you in determining if consent is required include one's immediate supervisor, Risk Management and/or Information Stewardship, Access & Privacy Office.

<sup>8</sup> Ibid 2 - See Section 30

<sup>9</sup> See this policy Section 5.0 Definitions

## 2.2 Recording Activities for Personal Purposes using Personal Recording Devices:

There may be occasions where it is reasonable and acceptable for Staff and Physicians to use their personal recording devices to engage in Recording Activities of other Staff and Physicians or People for personal purposes. These may include such activities as recording Staff and Physician celebration or recognition events (e.g. birthday) or taking or making a personal video call (e.g. using Face Time) from or to People outside of Island Health while at work but during a designated work break.

Staff and Physicians who engage in Recording Activities for personal purposes will ensure that they conduct themselves responsibly in a manner that is consistent with Island Health values and does not directly or inadvertently place their actions in conflict with this and other Island Health policies - in particular with Policy 5.5.1 Conflict of Interest and Policy 5.5.2 Respectful Workplace, or with employment or contracted service requirements, or with their obligation to obtain informed consent of their patients, clients and residents or other People and of other Staff and Physicians, as required under the BC *Privacy Act*<sup>10</sup>.

2.3 Staff and Physicians must report, in a timely manner, any potential or actual unauthorized Recording Activities (witnessed, or of which they become aware) of People or other Staff and Physicians in accordance with policy 1.5.4 Privacy and Related Information Security Breaches.

2.4 Failure by Staff and Physicians to adhere to these legal and organizational obligations and requirements violates the personal privacy rights<sup>11</sup>, and possibly the safety, of individuals captured by these recordings. Wilfully taking unauthorized recordings in the absence of the informed consent of individuals captured by the Recording Activity is a “wrongful act” and an actionable offense under the BC *Privacy Act*<sup>12</sup>.

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<sup>10</sup> Ibid 3 - See Section 1

<sup>11</sup> See Section 5 Definitions of this policy and section 7 of the *Canadian Charter of Rights and Freedoms, Constitution Act, 1982*, c.11 (U.K.), Schedule B

<http://laws-lois.justice.gc.ca/eng/Const/page-15.html>

<sup>12</sup> Ibid 3 - See Section 1; and review <http://bccla.org/privacy-handbook/main-menu/privacy2contents/privacy2-11/>

### 3.0 Scope

This policy applies to **any situation** and **any location** across the continuum of care where Island Health Staff and Physicians provide care or services, including in a client’s home.

This policy applies to all Island Health Staff and Physicians including:

- Individuals employed directly by Island Health including the Chief Executive Officer, Executive leaders, management, supervisory employees and frontline staff;
- Employed and contracted medical staff, residents, clinical trainees, and students;
- Post-secondary faculty and support staff who work at Island Health facilities;
- Contracted and sub-contracted service providers; and
- All other designated Island Health agents.

This policy does not apply to **media requests** for Recording Activities, which must be referred to and managed by Island Health’s Communications and Public Relations Department.

### 4.0 Consequences of Violation

Staff and Physicians are accountable for all their actions in relation to this policy. Any actions that violate the personal and/or information privacy rights of patients, clients, residents, staff or physicians will not be tolerated. This includes such actions as photographing or otherwise recording, using and sharing images of, or interactions with, People or Staff and Physicians for purposes that are NOT a permitted care or service activity of Island Health and/or that occur without the subject’s knowledge and/or consent as required.

A staff member or physician who is found to have engaged in such conduct may be subject to discipline up to and including termination of employment, cancellation of contract or services with Island Health, withdrawal of privileges and/or legal action.

### 5.0 Definitions

<p>Audio-Recording <i>A Recording Activity</i></p>	<p>the act of capturing a voice or other sound by <i>any</i> form of electronic and/or tape recording device (e.g., tape recorder, digital recorder, cell phone, Smartphone, tablet, Skype, or wearable computing devices, such as Google Glasses).</p>
<p>Contact Information</p>	<p>information that enables an individual at a place of business to be</p>

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	contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual. <sup>13</sup>
Facility	includes all Island Health-owned, operated, leased or contracted facilities, grounds or vehicles, as well as clients' homes where care is provided by Island Health staff.
Information Privacy	refers to the right of an individual or data subject to determine with whom their personal information is shared, under what circumstances and to know of and exercise control over the collection, use, disclosure and access to any personal information collected about him or her. <sup>14</sup>
Information Steward	refers to the person(s) with accountability for the body of data or information resource associated with the scope of that person's role. In Island Health, that role is jointly assigned to the respective Director and Medical Director responsible for each program area.
People	includes patients, clients, residents, visitors and members of the public.
Personal Information	recorded information about an identifiable individual, other than contact information. This includes, but is not limited to: <ul style="list-style-type: none"><li>• the individual's race, national or ethnic origin, colour, or religious or political beliefs or associations;</li><li>• the individual's age, sex, sexual orientation, marital status or family status; an identifying number, symbol or other particular assigned to the individual;</li><li>• the individual's fingerprints, blood type or inheritable characteristics, images of the person or their body parts, or identifiable audio recordings;</li><li>• information about the individual's health care history, including a physical or mental disability;</li><li>• information about the individual's education, financial, criminal or employment history;</li><li>• anyone else's opinions about the individual; and</li></ul>

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<sup>13</sup> See Schedule 1 of the *FIPPA*. [http://www.bclaws.ca/EPLibraries/bclaws\\_new/document/LOC/freeside/--%20F%20--/Freedom%20of%20Information%20and%20Protection%20of%20Privacy%20Act%20RSBC%201996%20c.%20165/00\\_Act/96165\\_07.xml#Schedule1](http://www.bclaws.ca/EPLibraries/bclaws_new/document/LOC/freeside/--%20F%20--/Freedom%20of%20Information%20and%20Protection%20of%20Privacy%20Act%20RSBC%201996%20c.%20165/00_Act/96165_07.xml#Schedule1)

<sup>14</sup> <https://intranet.viha.ca/pnp/pnpdocs/confidential-information-privacy-rights-personal-policy.pdf>

- the individual's personal views or opinions, except if they are about someone else.

Personal Privacy	the right to exercise control over the integrity of one's body as provided by the fundamental rights of "life, liberty and security of the person" enshrined in Sections 7 and 8 of the <i>Canadian Charter of Rights and Freedoms</i> <sup>15</sup> .
Photographing <i>A Recording Activity</i>	the act of capturing any still image using <i>any</i> form of electronic or photographic equipment (e.g., Smartphone, digital film camera, standard camera, tablet or wearable computing device, such as Google Glasses).
Recording Activities	the acts of collecting information about individuals or their interactions, in whole or in part, by means of photographing, video- or audio-recording individuals or their interactions.
Staff and Physicians	all Island Health employees, physicians and designated Island Health agents. An Island Health agent is any individual or organization that has a business relationship with Island Health. Examples include, but are not limited to, contracted health care providers, researchers, volunteers, students, contractors, sub-contractors, vendors/suppliers or any individuals directly or indirectly associated with Island Health.
Video-Recording <i>A Recording Activity</i>	the act of capturing a still or moving image using <i>any</i> form of electronic and/or film recording device (e.g., video camera, surveillance camera, Smartphone, digital film camera, Skype or other live streaming mechanism, tablet, or wearable computer device, such as Google Glasses).

<sup>15</sup> Ibid 11

## **6.0 Related Policies, Procedures & Guidelines**

16.6.2P Maintaining Respect for Individuals and their Personal Information when People undertake Recording Activities in Island Health Facilities and Service Areas (in draft)

### **6.1 Other Related Policies**

- 1.5.1P Confidential Information – Privacy Rights of Personal Information
- 1.5.4P Privacy and Related Information Security Breaches: Reporting, Investigation and Management
- 2.3.2P Social Media use by VIHA Employees
- 5.5.1P Conflict of Interest
- 5.5.2P Respectful Workplace
- 5.8.5P Workplace Violence Prevention
- 5.5.12P Whistle Blowing
- 5.5.12PR Whistle Blowing Procedure
- 6.1.1P Fair Business Practices
- 16.1.1P Information and Data Governance
- 16.4.2.3 Acceptable use of Assets and Resources

## Appendix A – Patient, Resident, Client Notification

### ***Caring for Your Information*** **Notice to our Patients, Clients, and Residents**



#### **Collecting, Using, and Sharing Your Personal Information**

When you are receiving care, treatment, and services at the Vancouver Island Health Authority, our staff and physicians will collect personal information from you. Where permitted, we may ask your family, friends, or other organizations to give us information about you (e.g., copies of records, medication information, or test results).

Your information may be entered into our electronic health information systems to assist authorized persons in quickly accessing pertinent information wherever you may be receiving care or services.

We collect, use, and share your personal information under the primary authority of the BC *Freedom of Information and Protection of Privacy Act* ("FIPPA"). FIPPA and other legislations authorize us to use and share your personal information for these reasons:

- To identify you and keep in contact with you about your health care;
- To assist with your ongoing care and support of care activities;
- To help us plan, monitor, maintain and improve our care and services;
- For education and training (e.g., medical students) and to conduct research with consent or as permitted by law;
- To know your eligibility for benefits and services and to arrange medical services billing;
- To enable parties (e.g., Ministry of Health Services, Canadian Institute of Health Information) to confirm your identity, conduct planning, improvement and research activities, measure performance and fund healthcare;
- To analyze, manage and control disease outbreaks and monitor the overall health of people; and,
- As required by law (e.g., court order, reportable conditions) and as authorized by FIPPA.

Your health information will be provided to your referring physician, other authorized health care professionals and their support staff, or health care agencies and facilities involved in your care to support continuous and consistent care and service. In some cases, these health professionals may look up your health information in our electronic health information systems in order to provide you with direct or supporting services.

If you are a patient in the hospital or residential care, we will provide your family or close friends who phone and ask about you with information confirming your admission and location. *If you do not wish us to release this information, please inform a staff member within Patient Registration or within your care area.*

#### **eHealth and Your Information**

eHealth is a provincial initiative that allows certain aspects of your health information to be accessed by authorized health care professionals throughout the province and not just within a particular region. Each Health Authority sends specific health information to province-wide electronic information systems where it is stored with strict protections and used for authorized purposes. For more information about eHealth and related privacy protections, visit the government eHealth website at <http://www.health.gov.bc.ca/ehealth>.

*Caring for Information is  
Caring for People*

VIHA May 2012/English

#### **For more information**

If you have any questions about this information, please contact VIHA's Information Stewardship, Access & Privacy Office at 250.519.1870 or our toll-free Privacy Hotline at 1.877.748.2290 or e-mail: [privacy@viha.ca](mailto:privacy@viha.ca)



## Appendix B – Employee Notification<sup>16</sup>

### **Caring for Your Information** Notice to Employees



#### **Collecting, Using, and Sharing Your Personal Information**

Island Health recognizes the sensitivity of its employees' personal information and takes its responsibility for protecting this information very seriously. As a potential or current employee, when you seek or enter into an employment relationship with Island Health, we will collect, use, share and store your personal information for employment purposes under the authority of the BC *Freedom of Information and Protection of Privacy Act (FIPPA)* and as authorized under other laws in BC and Canada, such as the *Workers Compensation Act*, *Financial Administration Act*, *Employment Standards Act* and the *Canada Revenue Agency Act*.

Your information will be entered into various electronic information systems to assist authorized persons to readily access pertinent information about you, such as your personal contact information and your past employment, educational, basic health and criminal record history. Once employed, Island Health may further collect, use and share your personal information to:

- Identify and maintain contact with you for employment related functions;
- Pay you and conduct required benefit, insurance and taxation functions;
- Conduct education, training and research with your consent or as permitted by law;
- Enable parties (e.g., Ministry of Health, Workers Compensation Board) to confirm your identity, conduct planning and improvement activities, measure performance and fund healthcare;
- Conduct workplace quality improvement activities;
- Conduct emergency management functions and to monitor the overall health of employees, including illness-related absenteeism;
- Comply with legislation or standards on criminal records checks, as applicable to your role;
- Support you and your Employer with Human Resources (HR) related matters, including performance monitoring and management activities; and,
- Comply with requirements under law (e.g., court order, reportable conditions) and as authorized by *FIPPA*.

#### **We are committed to protecting your privacy**

Island Health takes all reasonable steps to ensure that your personal information is treated confidentially, is only used for the purposes described above, and is kept secure as required by *FIPPA*.

#### **Did You Know?**

- We manage, protect and secure your information by applying the same privacy and security standards to your personal information as those applied to patient/client/resident information.
- Island Health must obtain your consent to collect, use or share your information for purposes not otherwise allowed by *FIPPA* or other legislation.
- You own your own personal information, while Island Health owns the records in which it is contained.
- You should ensure information about you held by Island Health (e.g., home address) is kept up-to-date so we may effectively and quickly communicate with you. Refer to the personal information change form on Island Health's intranet for more information on updating your address and other personal information.
- The public has a right under the *Financial Information Act* to be provided with a list of all public servants' names with remuneration over \$75,000/year and their expenses, which is published annually on Island Health's public website. If such disclosure concerns you for clear and reasonable personal safety concerns, please discuss it with your Manager, Human Resources or the Information Stewardship, Access & Privacy Office (ISAP) to determine if your information is eligible for exemption from disclosure under *FIPPA*.
- Your business contact information, such as your name, title, business address, phone number and email address, is not personal information under *FIPPA* and, therefore, may be used and shared for business-related purposes without your consent.

*Caring for Information is  
Caring for People*

VIHA October 2013/English

#### **For more information**

If you have any questions about the privacy of your information, please contact Island Health's Information Stewardship, Access & Privacy Office at 1.877.748.2290 or e-mail: [privacy@viha.ca](mailto:privacy@viha.ca)  
If you have questions about HR related matters, contact Island Health's HR Access Helpline at 1.888.296.3963 or e-mail: [HRAccess@viha.ca](mailto:HRAccess@viha.ca)

<sup>16</sup> For the purposes of *FIPPA*, employee is inclusive of Physicians and all other agents of the Island Health.