

POLICY & PROCEDURE MANUAL

SECTION 5 – PRIVACY POLICIES

Policy Title:	Policy #	Page
Privacy	5.2	Page 1 of 10

POLICY

As a health information custodian, The Alzheimer Society must adhere to the provisions set out in PHIPA for the collection, use and disclosure of personal health information.

While this policy draws specific reference to personal health information, our privacy practices are intended to cover all personal information collected about clients.

PURPOSE

To ensure that the personal health and other information relating to our clients is safeguarded and that clients and their families are made fully aware of our privacy practices.

DEFINITIONS

Personal Health Information

As defined in PHIPA, personal health information means identifying information about an individual in oral or recorded form, if the information:

- Relates to the physical or mental health of an individual, including information that consists of the health history of the individual's family;
- Relates to the provision of health care to an individual, including the identification of a person as a provider of health care to an individual;
- Identifies an individual's substitute decision maker, or
- Identifies an individual's health card number.

Circle of Care - Commonly used to describe the ability of certain health information custodians to *assume* an individual's implied consent to collect, use or disclose personal health information for the purpose of providing health care, in circumstances defined in the Personal Health Information Protection Act 2004 (PHIPA).

Implied Consent -A health care provider may only assume an individual's implied consent to collect, use or disclose personal health information if ALL of the following six conditions are satisfied:

1. The health care provider must fall within a category of health information custodians that are entitled to rely on assumed implied consent;
2. The personal health information to be collected, used or disclosed by the health care provider must have been received from the individual, his or her substitute decision-maker or another health care provider;

Issued By: CEO	Approved By: Melanie Bouck, CEO
Effective Date: April 2019	Review Date:

POLICY & PROCEDURE MANUAL

SECTION 5 – PRIVACY POLICIES

Policy Title:	Policy #	Page
Privacy	5.2	Page 2 of 10

3. The health information custodian must have received the personal health information that is being collected, used or disclosed for the purpose of providing or assisting in the provision of health care to the individual;
4. The purpose of the collection, use or disclosure of personal health information by the health care provider must be for the provision of health care or assisting in the provision of health care to the individual;
5. In the context of disclosure, the disclosure of personal health information by the health care provider must be to another health care provider; and
6. The health care provider that receives the personal health information must not be aware that the individual has expressly withheld or withdrawn his or her consent to the collection, use or disclosure.

Informed Consent – a process for getting permission before conducting a healthcare intervention on a person. A health care provider may ask a client to consent to receive services and support before providing it. An informed consent can be said to have been given based upon a clear appreciation and understanding of the facts, implications, and consequences of an action in order to give informed consent, the individual concerned must have adequate reasoning faculties and be in possession of all relevant facts at the time consent is given.

PROCEDURE

1. Collection of Personal Health Information

Generally, the Alzheimer Society collects personal health and other personal information about clients through the referral and service delivery process in order to provide a wide variety of supports and programs. The information that we collect may include, for example, a client's name, date of birth, address, health/social history, family history, record of visits and the services received. We also collect background information with respect to our clients and their family members, including services received, functioning at home, or in the community, and supports available.

By law, and in accordance with professional standards, The Alzheimer Society maintains a record of services to, and contacts with, all clients. Client records include:

- Referral information;

Issued By: CEO	Approved By: Melanie Bouck, CEO
Effective Date: April 2019	Review Date:

POLICY & PROCEDURE MANUAL

SECTION 5 – PRIVACY POLICIES

Policy Title:	Policy #	Page
Privacy	5.2	Page 3 of 10

- Information from other sources (e.g. family, partner, health care providers);
- Service/care plans;
- Results of any assessments or consultations (third party information);
- Consent forms;
- Individual assessments;
- Contact notes;
- Progress summaries; and
- Service-related correspondence.

We collect personal health and other personal information about clients directly from the client, their family or from another person authorized to act on their behalf. We also collect personal health and other personal information about clients from other sources, including other service providers, if we have obtained consent to do so or if the law permits.

We will not collect personal health information if other information will serve the purpose. In addition, we will not collect more personal health or other personal information than is reasonably necessary to meet the purpose.

2. Consent for Collection, Use and Disclosure of Personal Health and Other information

In most cases, The Alzheimer Society requires consent to collect, use or disclose the personal health and other personal information of our clients. In cases where we collect, use or disclose personal health or other personal information without consent, we will do so only where the law permits or requires us to do so. Where we are collecting, using or disclosing personal health information for service delivery purposes, the law normally permits us to rely on implied consent. Implied consent can be determined where the surrounding circumstances allow us to make a reasonable determination that the client or a person authorized to act on their behalf would agree to the collection, use or disclosure (e.g. calling for assistance).

If the purpose for which we are collecting, using or disclosing information is extended outside the circle of care, we will obtain specific written authorization from a client or a person authorized to act on their behalf. For consent to be valid, it must:

- Relate to the care or service;
- Be informed;
- Be given voluntarily; and
- Not be obtained through misrepresentation or fraud.

Issued By: CEO	Approved By: Melanie Bouck, CEO
Effective Date: April 2019	Review Date:

POLICY & PROCEDURE MANUAL

SECTION 5 – PRIVACY POLICIES

Policy Title:	Policy #	Page
Privacy	5.2	Page 4 of 10

In addition, consent is only valid if it is obtained from a capable person. To be capable of consenting, a person must be able to:

- Understand the information relevant to make the decision; and
- Appreciate the reasonably foreseeable consequences of giving, withholding or withdrawing consent.

Informed consent will be reviewed on an annual basis.

3. Use and Disclosure of Personal Health Information

Personal health or other personal information will not be used or disclosed for purposes other than those for which it was collected, except with the consent of the individual or as required by law.

When authorized by the client or when law requires, The Alzheimer Society uses and discloses the personal health and other personal information of its clients in order to:

- Provide assessment, programming and support services that have been requested;
- Maintain contact for service-related purposes or future consent purposes;
- Prevent harm or respond to emergency situations;
- Assess needs;
- Advise of treatment and service options;
- Deliver safe and efficient services;
- Enable us to communicate with other health care providers and agencies;
- Maintain communication with clients and their significant others;
- Reduce a significant risk of bodily harm to self or others;
- Obey a court order or other legal requirement for a legal proceeding;
- Plan, administer and manage our internal operations;
- Conduct risk management, quality improvement activities and community- based advocacy;
- Facilitate the conduct of research as permitted by PHIPA;
- Compile statistics and other reporting requirements as mandated by funders;
- Comply with legal and regulatory requirements;
- Fulfill other purposes permitted or required by law;
- Contact individuals regarding upcoming Alzheimer Society - specific events, activities and services that may be of interest.

Unless we receive instructions to the contrary, we may disclose our client's personal health information to other health care providers in their "circle of care" who need to know certain information to provide our

Issued By: CEO	Approved By: Melanie Bouck, CEO
Effective Date: April 2019	Review Date:

POLICY & PROCEDURE MANUAL

SECTION 5 – PRIVACY POLICIES

Policy Title:	Policy #	Page
Privacy	5.2	Page 5 of 10

clients with services. The "circle of care" includes health care professionals, pharmacies, etc. that provide services to our clients.

For non-health care and other providers who are not included in the "circle of care", The Alzheimer Society will not share personal health or other personal information without the specific consent of the client.

4. Withdrawing Consent or Keeping Information Private

Consent may be withdrawn at any time. However, in order to provide the best service possible, the Alzheimer Society supports the sharing of personal information within the "circle of care". If we believe that the withdrawal or limiting of consent may compromise the client's service, we will discuss our concerns with the client or a person authorized to act on their behalf. This may restrict our ability to provide service. We believe that services work best for our clients when everyone involved in the client's services work together towards a common goal and has access to all of the information they require.

If a client wishes to limit who is able to access certain portions of their personal health or other information, they may do so by notifying AS in writing.

5. Adults and Consent

For services for adults, consent capacity, for the purposes of this policy, will be assumed, unless otherwise confirmed by an "assessor" as defined by the *Substitute Decisions Act*. If the individual is incapable of consenting to the collection, use or disclosure of personal health information, the following individuals may consent on that person's behalf, i.e. act as a "substitute decision maker" (SDM), in order of priority:

- SDM under the *Health Care Consent Act* may consent to information decisions necessary for, or related to, a decision about treatment or a long-term care admission;
- Guardian of the individual, or guardian of property (with authority);
- Attorney for personal care or attorney for property (with authority);
- The representative appointed by the Consent and Capacity Board;
- The spouse or partner;
- A brother or sister;
- Any other relative;
- Public Guardian and Trustee (as last resort).

6. Storage and Retention of Personal Health and Other Information

We store personal health and other personal information in both electronic and paper form and keep accurate records of the information we keep.

Issued By: CEO	Approved By: Melanie Bouck, CEO
Effective Date: April 2019	Review Date:

POLICY & PROCEDURE MANUAL

SECTION 5 – PRIVACY POLICIES

Policy Title:	Policy #	Page
Privacy	5.2	Page 6 of 10

The paper files we maintain are kept in locked cabinets and/or in a locked file room. The electronic information we keep is stored on a database and or on a secure server.

We keep our records of personal information for as long as necessary to fulfill the purposes for which it was collected, or as required by law. We retain records of personal health and other information for a minimum of 10 years.

7. Security of Personal Health and Other Information

The Alzheimer Society takes all necessary steps to ensure that personal health and other personal information in our custody or control is protected against theft, loss and unauthorized use, copying or disclosure. This includes personal information in paper and electronic format. Our methods of protection include the following:

a. Physical Measures

- Securing and protecting the premises and offices by lock and/or alarm.

b. Administrative Measures

- Creating and implementing internal operational procedures regarding security, including tracking all files within the agency;
- Training staff regarding privacy responsibilities and reviewing this annually; and
- Establishing contracts with any third parties retained to store or dispose of personal health and other information.

c. Technical Measures

- Mandating complex, individualized passwords to access computers that store personal information;
- Requiring an individualized password to access all computers that store personal information;
- Running up-to-date anti-virus, firewall and spyware software on all computers that store personal information;
- Ensuring that no personal information is stored on laptop computers and other electronic devices unless these are sufficiently secure and the information is encrypted; and
- A "notice of confidentiality" is added to all original outgoing emails.

Access to personal health and other personal information will be on a "need to know" basis and will be limited to only those employees authorized to hold, view or handle such information for their current job duties. Access is to be determined by the employee's direct Supervisor or Privacy Officer.

Issued By: CEO	Approved By: Melanie Bouck, CEO
Effective Date: April 2019	Review Date:

POLICY & PROCEDURE MANUAL

SECTION 5 – PRIVACY POLICIES

Policy Title:	Policy #	Page
Privacy	5.2	Page 7 of 10

8. Confidentiality Agreement

The Alzheimer Society requires that all employees, students, volunteers, purchased service contractors and all others affiliated with the Society to sign a Confidentiality Agreement confirming their commitment to protect the personal information of clients and their adherence to this policy.

Violation of this agreement will result in disciplinary action. Consequences could include termination of the person's relationship with the agency and/or legal action. This agreement remains in force even after an individual's relationship with the agency has ended.

9. Disposal of Personal Health Information

Where personal health and other personal information is to be disposed of, we will take reasonable steps to ensure that it is permanently destroyed.

For paper records, permanent destruction means use of a third party to provide secure on-site shredding.

For electronic records, permanent destruction means either physically damaging the storage device to the point that it is not re-usable or utilizing wiping utilities that irreversibly erase the data.

Personal health and other personal information may be disposed of either on-site or off-site, depending on the circumstances.

Where a third party is retained to dispose of personal health or other personal information, we will ensure that the third party signs a written agreement confirming that it will protect the security and confidentiality of personal health or other personal information and that it will permanently destroy the information in an expeditious manner.

Where personal health or other personal information is disposed of, we will make every effort to ensure that both the paper and electronic versions are disposed of in a contemporaneous manner.

We keep a record of disposal dates and the names of clients whose records were disposed of.

10. Responding to Privacy Breaches

The Alzheimer Society will consult the Privacy Breach checklist, Appendix 5C, in the event of a Privacy Breach.

Issued By: CEO	Approved By: Melanie Bouck, CEO
Effective Date: April 2019	Review Date:

POLICY & PROCEDURE MANUAL

SECTION 5 – PRIVACY POLICIES

Policy Title:	Policy #	Page
Privacy	5.2	Page 8 of 10

The Alzheimer Society will notify a client or a person authorized to act on his or her behalf at the first reasonable opportunity if personal health and other personal information are lost, stolen or accessed by unauthorized persons (i.e. a privacy breach).

If a privacy breach occurs, we will make every reasonable effort to contain the situation, which includes locating and retrieving all personal health and other personal information outside of our control, as well as ascertaining whether other personal health and other personal information is at risk of exposure. We will then take any steps necessary to minimize the chances of a similar future breach.

11. Accessing Personal Health and Other Information

A client or a person authorized to act on the client's behalf has the right to request access to a record of personal health and other personal information in our custody or control containing the client's personal health and other personal information. Such a request may be made by providing the request in writing.

The Alzheimer Society will provide a response to all access requests within 30 days, although in certain legally permissible circumstances, we may inform the requester that additional time may be required to provide a response.

The right to obtain access to personal health and other personal information is not absolute. An access request may be denied where:

- The information does not exist;
- Denial of access is required or authorized by law; or
- The request is frivolous, vexatious or made in bad faith.

If access to a record of personal health or other personal information is refused, written reasons will be provided.

A fee will be charged to make copies of personal health information. Such fees will always represent a reasonable cost recovery amount and will always be communicated in advance.

12. Accuracy of Personal Health Information

The Alzheimer Society takes all reasonable steps to ensure that personal health and other personal information regarding our clients is as accurate, complete and up-to-date as possible, in order to minimize the possibility of inaccurate information being used to make a decision about a client. This includes reviewing the personal health and other personal information collected at the outset of service and regularly thereafter.

Issued By: CEO	Approved By: Melanie Bouck, CEO
Effective Date: April 2019	Review Date:

POLICY & PROCEDURE MANUAL

SECTION 5 – PRIVACY POLICIES

Policy Title:	Policy #	Page
Privacy	5.2	Page 9 of 10

From time to time, the agency may seek to update certain personal health and other personal information about our clients, such as addresses, telephone numbers and health card numbers. We encourage our clients or persons authorized to act on their behalf to contact us with any changes to personal health information or other personal information that may be relevant to our ability to provide timely and effective services.

13. Correction of Personal Health Information

Depending on the circumstances, a client or a person authorized to act on their behalf has the right to request correction to a record of personal health information in our custody or control containing the client's personal health and other personal information, which they believe is incorrect or incomplete. This request for change should be done in writing. We will provide a response to all correction requests within 30 days, although in certain legally permissible circumstances, we may inform the requester that additional time may be required to provide a response.

If we agree with a correction request, we will make every effort to record the correct information in the record and cross out the incorrect information, without obliterating it.

A request to correct records may be denied where:

- We are not satisfied that the record is incomplete or inaccurate for the purposes for which it uses the information;
- The request consists of a record that was not originally created by us and we do not have sufficient knowledge, expertise and authority to correct the record;
- The request consists of a professional opinion or observation that a health information custodian has made in good faith; or
- The request is frivolous, vexatious, or made in bad faith.

If we refuse to make the correction requested, written reasons will be provided.

14. Responding to Client Concerns about Privacy

If a client has concerns about something that has been done with their personal health or other personal information, they will be directed to the Alzheimer Society Privacy Officer.

15. Information and Privacy Commissioner of Ontario

Although we will make every effort to provide an amicable resolution to all privacy concerns, PHIPA provides individuals with the right to complain to the Information and Privacy Commissioner of Ontario.

Issued By: CEO	Approved By: Melanie Bouck, CEO
Effective Date: April 2019	Review Date:

POLICY & PROCEDURE MANUAL

SECTION 5 – PRIVACY POLICIES

Policy Title:	Policy #	Page
Privacy	5.2	Page 10 of 10

The Commissioner can be reached at:
Information and Privacy Commissioner
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References:

Personal Health Information Act, 2004
Health Care Consent Act, 1996
Substitute Decisions Act

Issued By: CEO	Approved By: Melanie Bouck, CEO
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