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SUBJECT: PRIVACY & CONFIDENTIALITY

POLICY:

Ongwanada will ensure that the privacy, confidentiality and security of all personal and/or personal health information of staff, individuals served and their families and service users under its control are protected. Ongwanada complies with all applicable laws and is committed to the standards outlined in the Personal Health Information Protection Act (2004) and the Personal Information Protection and Electronic Documents Act (2001).

All privacy policies apply to personal and/or personal health information regardless of the medium (eg. paper, electronic & verbal) used for its collection, communication or storage.

Failure by Ongwanada employees to maintain the confidentiality and privacy of all personal and/or personal health information held by the organization may result in discipline up to and including termination of employment.

1.0 DEFINITIONS:**Personal Information**

“personal information” means recorded information about an identifiable individual, including,

- (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual,
- (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
- (c) any identifying number, symbol or other particular assigned to the individual,
- (d) the address, telephone number, fingerprints or blood type of the individual,
- (e) the personal opinions or views of the individual except where they relate to another individual,
- (f) 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,
- (g) the views or opinions of another individual about the individual, and
- (h) 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 Health Information

“personal health information” means identifying information about an individual in oral or recorded form, if the information,

- (a) relates to the physical or mental health of the individual, including information that consists of the health history of the individual’s family,
- (b) relates to the provision of health care to the individual, including the identification of a person as a provider of health care to the individual;



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- (c) is a plan of service within the meaning of the *Home Care and Community Services Act, 1994* for the individual;
- (d) relates to payments or eligibility for health care, or eligibility for coverage for health care, in respect of the individual;
- (e) relates to the donation by the individual of any body part or bodily substance of the individual or is derived from the testing or examination of any such body part or bodily substance;
- (f) is the individual's health number; or
- (g) identifies an individual's substitute decision-maker.

Health Information Custodian

A person or organization described in Section 3 of the Personal Health Information Protection Act with custody or control of personal health information as a result of, or in connection with, their duties and those of the organization.

Agent

A person who, with the authorization of the Health Information Custodian, acts for or on behalf of the custodian with respect to personal health information for the purposes of the custodian, and not the agent's own purposes, whether or not the agent has the authority to bind the custodian, is employed by the custodian and is or is not being remunerated.

Information Practices

Policies and practices of the custodian in relation to personal health information, including,

- (a) when, how and for what purposes the custodian routinely collects, uses, modifies, discloses, retains or disposes of personal health information, and
- (b) the administrative, technical and physical safeguards and practices that the custodian maintains with respect to the information

Individual Served Clinical Record

Is all recorded information, regardless of physical form or characteristics, collected and maintained as part of the casebook, in sufficient detail to enable all persons to provide effective, continuing service and:

- relates to the person,
- is recorded or collected in connection with the provision of an approved Ongwanada service, or a service purchased by or from an approved agency, to the individual served or a member of their family,
- is under the control of Ongwanada,
- includes information (original or copies) maintained separate from the casebook by a program or staff as reference to assist in the performance of their duties.



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A individual served clinical record is the property of Ongwanada and will not be removed from Ongwanada except on the authority of the Chief Executive Officer.

2.0 **ACCOUNTABILITY:**

Ongwanada is responsible for personal and/or personal health information under its control and will designate an individual or individuals as accountable for the organization's information practices and its compliance with the following principles.

- 2.1 Overall accountability for maintaining the privacy and confidentiality of the personal and/or personal health information of staff, individual served and their families, and other users of Ongwanada services or premises rests with the Organization's Chief Executive Officer and Board of Governors.

Accountability for compliance with applicable legislation and standards rests with the Chief Privacy Officer or other staff as designated.

- 2.2 Upon request, the identity of the individual(s) designated by Ongwanada to oversee its compliance with these principles will be made known.
- 2.3 Ongwanada's responsibility for personal and/or personal health information in its possession or custody, extends to information transferred to a third party for processing. Ongwanada will use contractual or other means to ensure a comparable level of protection by third parties.
- 2.4 Ongwanada will implement policies and procedures to give effect to the principles of privacy and confidentiality including:
- 2.4.1 Procedures to protect personal and/or personal health.
 - 2.4.2 Procedures to receive and respond to complaints and inquiries.
 - 2.4.3 Training of staff/Board of Governors about Ongwanada's legal and operational obligations regarding privacy and confidentiality.
 - 2.4.4 Making publically available information explaining Ongwanada's policies and procedures.

3.0 **IDENTIFYING PURPOSES:**

At or before the time personal and/or personal health information is collected from staff, individuals served and their family or other users, the purposes for which this information is being collected will be identified.

- 3.1 Ongwanada will document the purposes for which personal and/or personal health information is collected.
- 3.2 Express or implied consent for the collection of personal and/or personal health information will be obtained and the purpose for the collection of such information disclosed. Information collected will be limited to that required to fulfil the function for which the information is needed.
- 3.3 In circumstances where personal and/or personal health information is to be used for a purpose



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other than that for which it was initially collected, the consent of the individual must be obtained prior to its use.

- 3.4 Persons collecting personal and/or personal health information will explain the purposes for which the information is being collected.

4.0 CONSENT:

The knowledge and consent of the individual is required for the collection, use or disclosure of their personal and/or personal health information, except in certain circumstances, including legal requirements, medical emergencies or reasons of security which make it impossible or impractical to seek consent. If time is a factor in obtaining consent, Ongwanada will seek express, written consent after the fact.

- 4.1 Consent for the use or disclosure of information will be obtained at the time the information is collected. In certain circumstances, such consent may be sought after the information has been collected but before its use.
- 4.2 Ongwanada will ensure that staff, individuals served and their family, or other users are advised of the purpose for which the information is being collected and used in a manner that can be reasonably understood.
- 4.4 In obtaining consent, the reasonable expectations of the individual are relevant. Individuals added to a mailing list should reasonably expect that the organization may send a variety of information, for example newsletters. Conversely, an individual would not reasonably expect that personal and/or personal health information would be given to a company selling health-care products, unless consent was obtained. Consent will not be obtained through deception.
- 4.5 The way in which consent is sought may vary, depending on the circumstances and the type of information collected. Ongwanada will generally seek express consent when the information is of a sensitive nature. Implied consent is generally appropriate when the information is less sensitive. Consent can also be given by an authorized representative (such as a substitute decision maker or nearest relative).
- 4.6 Consent may be obtained in many ways. For example:
- 4.6.1 Through a general consent form allowing the collection of information and informing the individual of the uses being made of the information.
- 4.6.2 Specific written consent where sensitive information is being shared with other organizations.
- 4.6.3 Verbal consent in circumstances where information is collected over the telephone. A record of the verbal consent will be retained on the record of the staff member, individual served or family member, or other user. Clinical Records staff will follow up after the fact to obtain original signatures and consent.
- 4.6.4 Implied or express consent may be obtained at the time the individual uses a product or service.
- 4.7 An individual may withdraw previously given consent at any time, subject to legal or contractual



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restrictions and reasonable notice. Ongwanada will inform the individual of the implications of such withdrawal.

5.0 LIMITING COLLECTION:

Ongwanada will not collect personal and/or personal health information indiscriminately. The amount and type of information collected will be collected in a fair and lawful manner and limited to that necessary to fulfil the purposes identified.

6.0 LIMITING USE, DISCLOSURE, AND RETENTION:

Personal and/or personal health 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. Personal and/or personal health information will be retained only as long as necessary for the fulfilment of those purposes.

- 6.1 When using personal and/or personal health information for a new purpose other than that for which it was intended, Ongwanada will document the purpose (see Section 3.1) and seek the consent of the individual.
- 6.2 Ongwanada has policies regarding minimum and maximum retention periods for personal and/or personal health information. Personal and/or personal health information used to make a decision about an individual is retained at least long enough to allow the individual access to the information after the decision has been made. Ongwanada will comply with all legislative requirements regarding retention periods for specific types of information.
- 6.3 Personal and/or personal health information that is no longer required for the purpose for which it was collected will be destroyed in accordance with Ongwanada policies governing the destruction of personal and/or personal health information.

7.0 ACCURACY:

Personal and/or personal health information will be accurate, complete and as up-to-date as necessary for its purpose, depending upon the purpose for which the information will be used, taking into account the interests of the individual.

- 7.1 Ongwanada will routinely update individuals served personal and/or personal health information as necessary to fulfil the purposes for which the information is collected.

8.0 SAFEGUARDS:

Security safeguards are in place to protect personal and/or personal health information.

- 8.1 Security safeguards will protect personal and/or personal health information held in any format against loss or theft, unauthorized access, disclosure, copying, misuse, or modification.
- 8.2 The nature of the safeguards will depend on the amount, distribution, and format of the information, and the method of storage.
- 8.3 Security safeguards for personal and/or personal health information include:



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- 8.3.1 Physical measures - locked filing cabinets, restricted access to offices and security alarms.
- 8.3.2 Organizational measures - staff identification badges, security clearances, access limited to a need-to-know basis.
- 8.3.3 Technological measures - passwords and data encryption.
- 8.4 Ongwanada employees receive education and are regularly informed of the importance of maintaining the confidentiality and privacy of personal and/or personal health information.
- 8.5 Personal and/or personal health information is disposed in a manner that prevents its collection and use by unauthorized parties

9.0 OPENNESS:

Ongwanada will make available its policies and procedures relating to the management of personal and/or personal health information.

- 9.1 Ongwanada will make available policies relating to personal and/or personal health information upon request in a form that is generally understandable.
- 9.2 The information made available may include:
 - 9.2.1 The name or title, and address, of the person responsible for Ongwanada's policies and procedures and to whom complaints or inquiries can be forwarded.
 - 9.2.2 The means by which access to personal and/or personal health information held by Ongwanada can be gained.
 - 9.2.3 A description of the type of personal and/or personal health information held by Ongwanada, including a general account of its use.
 - 9.2.4 Brochures or other information that explain Ongwanada's policies or standards.
 - 9.2.5 A list of groups and individuals outside of Ongwanada, who may receive personal and/or personal health information (e.g MCSS), the information disclosed and the purpose for which the information is used.
- 9.3 Ongwanada may make information on its policies available in a variety of ways, depending on the nature of the request (e.g. telephone, correspondence or via internet to our individuals served and the public).

10.0 INDIVIDUAL ACCESS:

Upon request, individuals served, staff, Host Family providers and volunteers will be informed of the existence, use and disclosure of their personal and/or personal health information and will be given access to that information. An individual served, staff or volunteer may challenge the accuracy and completeness of the information and have it amended as appropriate.

Note: In certain situations, access to all the personal and/or personal health information Ongwanada holds



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about an individual may not be able to be provided. Exceptions to the access requirement will be limited and specific. The reasons for denying access will be provided to the individual upon request.

- 10.1 Upon request, Ongwanada is required to inform an individual whether or not it holds their personal and/or personal health information. Ongwanada will allow the individual access to this information but may choose to disclose sensitive medical information or professional assessments through a medical practitioner or other professional. Upon request, Ongwanada will provide an account of the use that has been made or is being made of the information held and an account of third parties to which information has been disclosed.
- 10.2 Acceptable personal identification must be provided prior to Ongwanada disclosing the existence, use, and disclosure of their personal and/or personal health information.
- 10.3 In providing an account of third parties to which personal and/or personal health information has been disclosed, Ongwanada will attempt to be as specific as possible. When it is not possible to provide a list of the organizations to which the information has actually disclosed, Ongwanada will provide a list of organizations to which information may have been disclosed.
- 10.4 Ongwanada will respond to an individual's request for information within a reasonable timeframe and at minimal or no cost to the individual. The requested information will be provided or made available in a form that is generally understandable.
- 10.5 When an individual successfully demonstrates the inaccuracy or incompleteness of their personal and/or personal health information, Ongwanada will amend /append the information as required. Depending upon the nature of the information challenged, an amendment involving the correction, or addition of information may be made. Where appropriate, the amended information will be transmitted to those third parties in receipt of the information being amended.

11.0 CHALLENGING COMPLIANCE:

An individual may challenge Ongwanada's compliance with pertinent privacy legislation. Such challenges will be forwarded to the party responsible for Ongwanada's privacy compliance.

- 11.1 Ongwanada has a procedure in place to receive and respond to complaints or inquiries relating to the handling of personal and/or personal health information.
- 11.2 Ongwanada will inform individuals making inquiries or who lodge complaints of the relevant complaint procedures.
- 11.3 Ongwanada will investigate all complaints. If a complaint is found to be justified, Ongwanada will take appropriate measures, including amending its policies and procedures if necessary, to address the circumstances giving rise to the complaint.

12.0 COMPLAINT PROCESS

- 12.1 Ongwanada, will investigate all complaints related to the collection, use or mis-use, inaccuracy, storage and disposal of personal and/or personal health information, and if found to be justified, will take appropriate measures to address the complaint.



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- 12.2 Complaints related to personal and/or personal health information must be recorded by completing the *Privacy Complaint Form*, and submitting it to the Chief Privacy Officer. Complaints will be responded to no later than 30 days after receipt.
- 12.3 In the event that the individual is not satisfied with the outcome of the Ongwanada investigation, he/she may contact the Office of the Privacy Commissioner of Ontario at:

Information and Privacy Commissioner/Ontario
 1400-2 Bloor Street East
 Toronto, Ontario M4W 1A8
 1-800-387-0073

13.0 EXCEPTIONS:

Ongwanada is not required to correct a record of personal health information if:

- 13.1 it consists of a record that was not originally created by Ongwanada and Ongwanada does not have sufficient knowledge, expertise or the authority to correct the record, or
- 13.2 it consists of a professional opinion or observation made in good faith .

14.0 BREACHES

14.1 Procedure:

In order to avoid a privacy breach, Ongwanada:

- 14.1.1 Documents information management and protection procedures, audits results and demonstrates good privacy practices;
- 14.1.2 Determines whether new technologies, information systems and proposed programs or policies meet basic privacy requirements;
- 14.1.3 Consults legal advice as required.

14.2 Reporting a Breach

- 14.2.1 All breaches or attempted breaches of an individual served, individual served family, staff or other service users personal or personal health information will be reported directly to the Chief Privacy Office or delegate.
- 14.2.2 Any breach or attempted breach of an individual, individual served family, staff or other service users personal or personal health information by an employee/volunteer/student/Host Family provider may result in disciplinary action up to and including termination of employment or contract.
- 14.2.3 Implementation of recommendations to prevent recurrence of privacy breaches or



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attempted breaches will be coordinated by the appropriate supervisory staff under the direction of the Chief Privacy Officer/delegate.

14.3 Addressing a breach - notification

The Chief Privacy Officer or delegate shall:

- 14.3.1 Identify the parties whose privacy has been breached;
- 14.3.2 Notify all parties affected by a privacy breach (except for those who do not have the right to see or obtain their own information);
- 14.3.3 Specify what and how much personal and/or personal health information was affected;
- 14.3.4 Explain the immediate and long-term steps the organization is taking to rectify the breach;
- 14.3.5 Record the unauthorized use and disclosure of information in the affected parties' personal/personal health records.

14.4 Addressing a breach - containment

Upon discovering a privacy breach, the Chief Privacy Officer/delegate shall:

- 14.4.1 retrieve all personal and/or personal health information disclosed;
- 14.4.2 ensure that the disclosed information is not retained or copied. Obtain the unauthorized person's contact information for follow-up if required;
- 14.4.3 determine if the privacy breach has allowed unauthorized access to any other personal and/or personal health information and take steps to stop further breaches of this nature.

14.5 Addressing a Breach – Additional Measures

- 14.5.1 One person will be assigned to communicate matters relating to the breach to the public/media on behalf of the organization, if deemed appropriate;
- 14.5.2 Senior Management and Ongwanada lawyers will be informed of the privacy breach, as appropriate;
- 14.5.3 All breaches, internal investigation findings and steps taken to mitigate future breaches shall be reported to the office of the Information and Privacy Commissioner of Ontario. Ongwanada shall work co-operatively with the Commissioner's staff in dealing with the breach;

14.6 The Chief Privacy Officer/delegate shall maintain:

- 14.6.1 A Log tracking all reported privacy breaches;
- 14.6.2 a record of investigative findings and interview notes from each privacy breach.



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15.0 COMPLAINT WITHOUT MERIT:

If, during investigation it is determined that a complaint of breach of privacy is without merit, the Chief Privacy Officer or delegate shall:

- 15.1 Inform the complainant of their findings and outcome;
- 15.2 Inform the complainant of their right to make a complaint to the office of the Information and Privacy Commissioner of Ontario, if they so choose;

16.0 ORIENTATION/EDUCATION REGARDING CONFIDENTIALITY

- 16.1 All new Ongwanada staff, students, research program staff, Host Family providers and volunteers, are required to attend an orientation session on confidentiality and sign Ongwanada's Statement of Confidentiality. The signed Statement of Confidentiality will be maintained on the staff member/student/Host Family providers/volunteers' file. Statements of Confidentiality from research program staff will be maintained in the Clinical Records Department.
- 16.2 Managers/Supervisors are responsible for ensuring that staff review the Privacy & Confidentiality policy at least once per year.

17.0 ACCESS TO/DISCLOSURE OF CONFIDENTIAL INFORMATION

Staff, students, individuals served or their substitute decision maker may access only those personal and/or personal health records held by the organization for which they have the right or permission to do so, except under special circumstances

- 17.1 Staff, individuals served, or their substitute decision maker may request access to their personal and/or personal health information by completing the "Request Access to Personal Records Form" (see Appendix I).

In all cases where such access request is granted, delegated Ongwanada staff, under the direction of the Chief Privacy Officer, shall:

- 17.1.1 document the date the request for access is received;
- 17.1.2 determine if such request contains sufficient detail to allow identification of the file. If the file cannot be found after a reasonable search, the requestor shall be informed of such, in writing;
- 17.1.3 determine if a legal exception to providing access applies (see Appendix II and Section 4.0 of this Policy). If a legal exception applies, an explanation will be given to the requestor and access to the file will be denied;
- 17.1.4 verify the requestor or substitute decision maker's identity and authorization for access;
- 17.1.5 arrange access to the file and monitor viewing of the record to ensure:
 - it is not altered in any way and
 - any questions about terms and abbreviations used in the file are answered.
- 17.1.6 provide a copy of requested documents from the file. A copy charge may apply.
- 17.2 In certain circumstances, Ongwanada cannot disclose to the requestor that a personal health record exists. (See Accessing Records Form)



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17.3 Access by individual served

- 17.3.1 An individual served under the age of 12 years may not access his/her own clinical record.
- 17.3.2 An individual served age 12 years or over may access his/her own clinical record with the assistance of an Ongwanada staff member who has a level of knowledge sufficient to be actively engaged in the interpretation of the material in language suitable to the individual served level of understanding.

17.4 Access by the Nearest Relative

- 17.4.1 The nearest relative of an individual served under the age of 16 may access the individual served clinical record without their consent. The assistance of an Ongwanada staff member who has a level of knowledge sufficient to be actively engaged in the interpretation of the material will be provided.
- 17.4.2 The nearest relative of an individual served age 16 years or over must have the consent of the individual served (see Policy #1-4-23 *Clinical Record Consents*, Section 10) for access to the individual served clinical record. If the individual served is unable to provide such consent, permission must be obtained from the Chief Executive Officer or delegate.
- 17.4.3 If the nearest relative of the individual served is the individual served substitute decision maker for purposes of a treatment decision, access to all information required to make an informed decision regarding treatment is permitted.
- 17.4.4 Ongwanada may withhold information or may provide a summary of information held in the individual served clinical record based on Ongwanada's judgement that full access/disclosure may be harmful to the emotional or physical well-being of the individual served or of any person who may have contributed to the clinical record.

17.5 Access to individuals served records by Employees or Agents of Ongwanada is restricted to:

- 17.5.1 The records of those individuals served in whose care the employees or agents are directly involved, where access to such information is necessary for the performance of their duties or for the active support, care or treatment to the individual served.
- 17.5.3 The extent needed to handle the record of individuals served who are no longer in care or receiving service, in accordance with retention schedules (as per Policy # 1-4-26 *Retention and Disposal of Clinical Records*) or to engage in follow-up services concerning the individual served.
- 17.5.4 Staff of the Clinical Record Department in the performance of their specific job duties.
- 17.5.5 An employee of Ongwanada who is required to access individuals served information in the performance of a study or review.
- 17.5.6 Members of the Medical Staff of Ongwanada engaged in the active treatment of the individual served.
- 17.5.7 The members of the Mortality Review Committee of the Medical Advisory Committee for clinical record review of an individual served who has expired while under Ongwanada's care.
- 17.5.8 Members of the Board of Governors for the purpose of investigating situations of a medical/legal nature, upon approval of the Executive Committee of the Board. Board



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members will have access to the clinical record through the office of the Chief Executive Officer.

- 17.5.9 Lawyer(s) representing Ongwanada for the purpose of investigating situations of a legal nature, upon approval of the Chief Executive Officer. The lawyer will have access to the clinical record through the office of the Chief Human Resources & Information Officer.
- 17.6 Clinical Records staff may request proof of identification and/or proof of staff involvement in the care of the individual served from staff requesting access to an individual served file and if necessary may call the appropriate Supervisor/Manager to verify right to access.
- 17.7 Emergency Request for Individuals Served Information - Alternate Setting
- 17.7.1 When an individual served is transferred to an alternate setting for emergency care, verbal information or copies of information from the clinical record may be provided without the consent of the individual served/nearest relative (see Policy #1-4-22 *Consent to Treatment*) to the extent required to provide the emergency care. Disclosure of information not related to the emergency, i.e. social history, requires consent from the individual served and/or the individual served nearest relative (see Policy #1-4-23 *Clinical Record Consents*, Section 4).
- 17.7.2 When a phone request for information is received from physicians or facilities/agencies providing emergency care and treatment to a current or former individual served, confidential information may be released to the extent required to provide the emergency care/treatment provided the identity of the caller can be confirmed and the provision of such information is in the best interest of the individual served.
- 17.8 Mandatory Access/Disclosure
- Requests for mandatory access to/disclosure of information from a clinical record shall be referred to the office of the Chief Human Resources & Information Officer. If approved, access/disclosure will be delegated to the Clinical Record Supervisor only.
- Mandatory access to individuals served files may include:
- 17.8.1 The office of the Coroner, for records related to the deceased or his or her circumstances as the coroner believes necessary.¹
- 17.8.2 The office of the Public Guardian and Trustee "for the purpose of investigating an allegation that a person is incapable of managing property or personal care, and that serious adverse effects are occurring or may occur"² Access must be provided no later than four (4) business days after making the request. The Public Guardian and Trustee may make photocopies of the records.
- 17.8.3 An officer of the court under the authority of a court order or search warrant. If files are subpoenaed, the Chief Executive Officer must be immediately notified. The Chief Executive Officer will select a delegate to take the clinical record to court.
- 17.9 Voluntary Access/Disclosure
- 17.9.1 All requests for voluntary access / disclosure of information from a clinical record shall be

¹ Coroners Act -Section 16 s. 2(b)

² Substitute Decisions Act - Section 83 s.1



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referred to the office of the Chief Executive Officer. If approved, access to / disclosure will be delegated to the Clinical Record Supervisor only.

- 17.9.2 When a child under the age of 16 years supported by Ongwanada is in need of protection or may have suffered abuse, a review team established by/with the Children's Aid Society may review that individual served information reasonably required to investigate a situation. Such information will be provided to the Children's Aid Society in a letter summarizing the facts relative to their investigation.
- 17.9.3 When a child supported by Ongwanada, is alleged to have abused another child, or that child is in need of protection, the investigating Children's Aid Society may have access to the respective Ongwanada individual served clinical record with the appropriate consent, or may apply for a court order to gain access to the individual served clinical record.
- 17.9.4 Where an adult age 16 years or over, who is supported by Ongwanada, is alleged to be responsible for a situation where a child is, may be or has suffered abuse, or is in need of protection, the investigating Children's Aid Society may access the individual served clinical record with the appropriate consent or may apply for a court order to obtain access to the individual served clinical record.

18.0 ACCESS/DISCLOSURE TO A THIRD PARTY - REQUIRING INDIVIDUAL SERVED CONSENT

Information from an individual served clinical record may not be disclosed without written consent (see Policy # 16-04-08 *Clinical Record Consents*). All requests for information will be forwarded to the Clinical Record Department.

18.1 Host Family Providers

A Host Family provider, may receive relevant information about the individual served in their care to the extent required for the continuity of care and treatment if authorized by the individual served and/or their nearest relative.

18.2 External Researcher

Requests for access to individuals served records for external research purposes shall be referred to the office of the Chief Executive Officer. Access will be approved by the Ongwanada Board of Governors. The consent of the individual served/nearest relative is required before access to information which may identify the individual served is granted.

18.3 Media

Individual served information or images will not be disclosed to the media without the consent of the individual served/nearest relative. All media requests shall be authorized by the Chief Executive Officer and carried out by the Coordinator Communication.

18.4 Students

Access to individuals served files by students on placement at Ongwanada will be limited to that information necessary in the performance of their duties and at the discretion of the Ongwanada Supervisor/Manager in consultation with the Supervisor, Clinical Records.

18.5 Executors of an Estate



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The executor of the estate must sign requests for information pertaining to a deceased individual served, even though the individual served/patient may have authorized such a release before his/her death.

18.6 Government Ministries/Agencies

Government representatives require appropriate consent to access clinical records, unless required under legislation or court order. Such requests will be immediately referred to the Chief Executive Officer.

18.7 Police

Police requests for access to individuals served records require appropriate consent. Such requests shall be immediately referred to the office of the Chief Executive Officer/delegate.

18.8 Other

Requests from other individuals, authorities, bodies, not referenced above, requires express consent from the individual served/substitute decision-maker or other authorized party prior to providing access to/disclosure of individual served information

19.0 GENERAL

All requests from third parties for confidential information regarding an individual served shall be made in writing.

19.1 Such requests shall be accompanied by an original consent authorizing the disclosure of information. Photocopies of consent will not be accepted.

19.2 Authorization for release of information may be accepted by FAX for urgent or emergent requests provided the faxed authorization meets all criteria for validity. An original hard-copy of the request should follow.

19.3 Requests received from a Psychiatric hospital/service for information may be accompanied by an original consent and will be honoured provided the criteria set out in Policy # 1-4-23 *Clinical Record Consents*, Section 3.1 have been satisfied.

19.4 The consent form must contain the original signature of the person with the appropriate authority (see Policy # 16-04-08 *Clinical Record Consents*, Definitions, Page 1) and must contain the following:

- information to be disclosed;
- the purpose of the disclosure;
- to whom the information is to be disclosed;
- whether the consent authorizes the further disclosure of the information by the person referred to in clause 4.5.3 and if so, to whom and for what purposes; and
- the period of time during which the consent remains in effect unless revoked.

19.5 A fee for preparing and forwarding the information will be assessed (See section 4.0 Fee Schedule)



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20.0 APPROVAL/DENIAL OF ACCESS/DISCLOSURE

The Clinical Record Department will provide a written follow-up to the person making the access to/disclosure of information request within 5 business days of receipt indicating:

- 20.1 Whether access/disclosure of the record has been approved and, if denied, the reason(s) for the denial.
- 20.2 If access to/disclosure of information has been denied, the requestor may appeal the decision, in writing, through the Chief Human Resources & Information Officer's office.
- 20.3 If access to/disclosure of information is approved, arrangements are made to provide access/disclosure of the clinical record, i.e. date, time, persons to be present.
- 20.4 That the requested information does not exist, if that is the case.

21.0 ACCESS TO CLINICAL RECORDS IN PERSON

Once a request to access all or part of the clinical record is approved:

- 21.1 The Clinical Records Department will notify the appropriate Supervisor/Manager of the program from which the individual has received services to review the record with the Supervisor, Clinical Records and to indicate which information on the record will be restricted.
- 21.2 The Clinical Record Supervisor will ensure that restricted information is removed prior to the clinical record being accessed by the requestor.
- 21.3 The Supervisor/Manager will review the file with the requestor, assisted by an Ongwanada staff member with a sufficient level of knowledge to be actively engaged in the interpretation of the material, if necessary.
- 21.4 The Supervisor/Manager is to be present at all times while the information is being examined. The requestor shall not alter, deface or remove any part of the record; they may make notes from the information.
- 21.5 The requestor shall acknowledge in writing that they have reviewed a specific clinical record or portion thereof.
- 21.6 Except when used by authorized staff or agents of Ongwanada, all instances of access to a clinical record must be recorded clearly on the record.

22.0 DISCLOSURE OF INFORMATION IN CORRESPONDENCE

Once a request to obtain copies of all or part of the clinical record has been permitted:

- 22.1 The Clinical Records Department will notify the appropriate Supervisor/Manager of the program from which the individual served has received services to review the record with the Supervisor, Clinical Records and to indicate which information on the record will be restricted.
- 22.2 The requested information is photocopied by the Clinical Record staff and stamped "**CONFIDENTIAL - Reproduction or disclosure not permitted - Clinical Record Department, Ongwanada.**"



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- 22.3 In consultation with the Chief Human Resources & Information Officer, the Supervisor, Clinical Records will determine if a fee is to be charged and forward the billing information to Financial Services (See section 4.0, Fee Schedule).
- 22.4 Clinical Records will forward the requested information to the requestor with an accompanying letter listing the documents enclosed and including a statement that the information disclosed is confidential, is provided for their use only and duplication is not authorized
- 22.5 All correspondence from the requestor, the original consent form (if applicable) and a copy of the response letter is filed on the clinical record.

23.0 DISCLOSURE OF INFORMATION VIA FACSIMILIE

Information from a clinical record may be faxed to another hospital/service only when required for urgent or emergent care and where there is no time for any other method of delivery. Clinical Records Department is responsible for faxing any information from a clinical record.

- 23.1 The Fax Cover Sheet will indicate
- the date the information is faxed
 - the information being faxed
 - to whom the information is being faxed (name and fax number)
 - the reason information is being faxed

A copy of the fax cover sheet and proof of fax delivery will be retained by clinical records

24.0 DISCLOSURE OF INFORMATION VIA E-MAIL

Confidential individual served information may not be sent via email to an e-mail address outside of the Ongwanada firewall without encryption or password protection.

Within Ongwanada, staff may exchange individual served information via e-mail using an @ongwanada.com e-mail or eCIMS com-box address as long as:

- individuals served are identified by initials or casebook number only
- the subject line does not contain any individual served information or individual served identifiers
- the location/program of the individual served is identified.
- only pertinent personal health information is contained and is restricted to the body of the email message.
- reports sent as attachments are encrypted and require a password to decrypt when the information is received.

25.0 RIGHT TO HAVE THE CLINICAL RECORD ADJUSTED/CORRECTED

Requests to have errors or omissions on the clinical record corrected are referred to the Supervisor, Clinical Records Department. A written, signed, dated statement detailing the request will be appended to the record. A copy of the statement advising of the error/omission will be provided to the appropriate Manager and the originator of the report being changed. At the discretion of the Manager, an amended record may be produced and appended to the original record. **THE INITIAL, ORIGINAL RECORD**



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WILL NOT BE CHANGED. The Supervisor, Clinical Records will notify the Chief Executive Officer of all corrections made to an individual served file.

26.0 ATTEMPTED UNAUTHORIZED ACCESS TO CLINICAL RECORDS

- 26.1 Staff must report attempts of access to confidential records or disclosure of confidential information that has not been authorized in accordance with this policy to the Supervisor, Clinical Records/delegate.
- 26.2 The Supervisor, Clinical Records/delegate will immediately notify the Chief Human Resources & Information Officer and Chief Executive Officer of such attempts.
- 26.3 Implementation of recommendations to prevent recurrence of similar incidents will be coordinated by the respective Managers, and the Supervisor Clinical Record. The Supervisor Clinical Record is responsible for ensuring the recommendation(s) are implemented.

27.0 RELATED POLICIES:

- 1-4-22 *Consent to Treatment*
 1-4-23 *Clinical Record Consents*
 1-4-18 *Legal Aspects of Clinical Records*
 1-4-20 *Security of Clinical Records/Individual Information*
 1-4-26 *Retention and Disposal of Clinical Records*
 1-6-30 *Personnel Files*

28.0 LEGISLATION:

- Personal Health Information Protection Act (2004)*
Personal Information Protection and Electronic Documents Act (2001)

FORMS RELATED TO POLICY:

- [Request Access to Personal Records](#)
[Accessing Records](#)
[Privacy Complaint Form](#)
[Ongwanada Policies and Procedures Influencing Media Relations and Individuals Rights](#)

LEAD PERSON:

Chief Human Resources & Information Services Officer

DELEGATED STAFF MEMBER:

Supervisor, Clinical Records

REVIEW DATE:

November 2019