

Policy Title:	Information Practices Related to Personal Health Information
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Manual Classification:	Section 1 – College Policies
Affiliated Operating Procedure(s):	1-112A; 111-2B; 111-2C and 111-2D (coming soon)
Approved by Board of Governors:	Original: March 25, 2020
Revision Date(s):	N/A
Effective Date:	March 25, 2020
Next Policy Review Date:	March 2023
Contacts for Policy Interpretation:	Policy and Privacy Coordinator Privacy Officer (to be hired) Manager of Operations - President's Office

1.0 - Policy Statement

Fleming College is committed to patient privacy, and to protecting the confidentiality and the security of the sensitive personal health information that it holds, in accordance with the *Personal Health Information Protection Act, 2004* (“**PHIPA**”). The College may handle your personal health information (“**PHI**”) when you seek health care from one or more of these College services:

- Counselling Services;
- Student Health Services; and/or
- The Massage Clinic.

Under PHIPA, the College is the Health Information Custodian that operates these services and it has a legal obligation to safeguard your PHI.

2.0 – Definitions and Acronyms

College Community	Any person who studies, teaches, conducts research at or works at, or under, the auspices of the College and includes without limitation, employees or contractors; appointees (including volunteer board members); students; visitors; and any other person while they are acting on behalf of, or at the request of the College.
Custody or Control	‘Custody or Control’ is a method of determining responsibility for the protection and provision of a record. It is determined on a case-by-case basis and typically is resolved by considering the following 4 questions: <ul style="list-style-type: none">• Did an officer or employee of the institution create the record?• Does the content of the record relate to the institution’s mandate and functions?

	<ul style="list-style-type: none"> • Does the institution have a right to possession of the record? • Does the institution have the authority to regulate the record's content, use and disposal? <p>Affirmative answers to some or all of the above questions typically constitute Custody or Control. Whether the College has custody or control of a Record must be interpreted and applied in congruence with the Information and Privacy Commissioner of Ontario's principle-based framework.</p>
Agent	Agents may include health care providers, staff, volunteers, students, researchers and any other members of the College Community who handle your PHI at the direction of the College.
Health Information Custodian	<p>Any person or organization, including any employee, volunteer, third party contractor, researcher or student who has custody or control of personal health information as a result of or in connection with performing the person's or organization's powers or duties or the work described below, if any:</p> <ol style="list-style-type: none"> a) A health care practitioner or person who operates a group practice of health care practitioners. b) A service provider within the meaning of the <i>Home Care and Community Services Act, 1994</i> who provides a community service to which that Act applies. c) A person who operates one of the following facilities, programs or services: a centre, program or service for community health or mental health whose primary purpose is the provision of health care. d) An evaluator within the meaning of the <i>Health Care Consent Act, 1996</i> or an assessor within the meaning of the <i>Substitute Decisions Act, 1992</i>. e) Any other person prescribed as a health information custodian if the person has custody or control of personal health information as a result of or in connection with performing prescribed power, duties or work or any prescribed class of such persons.

<p>Personal Health Information</p>	<p>Personal health information does not include records/identifying information pertaining to an individual that is not maintained primarily for the provision of health care and/or information that is not collected in the context of providing health care.</p> <p>The College may handle your personal health information (“PHI”) when you seek health care from one or more of these College services:</p> <ul style="list-style-type: none"> • Counselling Services; • Student Health Services; and/or • The Massage Clinic. <p>As defined under PHIPA:</p> <p>4(1) “personal health information”, subject to subsections (3) and (4), means identifying information about an individual in oral or recorded form, if the information:</p> <ol style="list-style-type: none"> 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 providing of health care to the individual, including the identification of a person as a provider of health care to the individual, c) Is a plan of service within the meaning of the <i>Home Care and Community Services Act, 1994</i> for the individual, d) Relates to payments or eligibility for health care, or eligibility for coverage for health care, in respect to the individual, e) Relates to the donation by the individual of any body part of bodily substance of the individual or is derived from the testing or examination of any such body part of bodily substance, f) Is the individual’s health number, or g) Identifies an individual’s substitute decision maker <p>4(2) “identifying information” means information that identifies an individual or for which it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other information, to identify an individual. 2004, c. 3., Sched. A. s. 4 (2)</p>
<p>Record</p>	<p>“Record” means a record of information in any form or in any medium, whether in written, printed, photographic or electronic form or otherwise, but does not include a computer program or other mechanism that cannot produce a record.</p>

3.0 – Purpose and General Principles

Personal Health Information, or PHI, is defined in PHIPA to include “identifying information” about an individual, in oral or recorded form, that relates to your physical or mental health, family health history, providing you with health care or the identification of one of your health care providers, payments or eligibility for coverage for health care, donation of body parts, your health card number and whether or not you have a substitute decision-maker.

PHIPA defines “identifying information” as “information that identifies an individual or for which it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other information, to identify an individual”.

These information practices are intended to guide the College and all members of the College Community who handle your PHI, and to individuals who act on their behalf and only as the College directs (henceforth “Agents”).

The College and its Agents are required to abide by these information practices. We require any Agent who collects, uses or discloses PHI on behalf of the College to be aware of the importance of maintaining the confidentiality of PHI. This may be done through the signing of confidentiality agreements, privacy trainings, and contractual means.

PHI may only be used within the limits of each Agent’s role. Agents may not read, look at, receive or otherwise use PHI unless they have a legitimate “need to know” as part of their position.

If an Agent, is in doubt whether an activity that requires the use of PHI is part of his or her position, he or she should contact the Privacy Coordinator. For example, self-directed learning is not allowed (randomly or intentionally looking at health records for self-initiated educational purposes) without specific authorization from the College.

Individuals have a right to access the PHI the College holds about themselves, subject to limited exceptions, if their request is made according to the procedures set out in these information practices and related procedures.

These information practices must be interpreted and applied in compliance with the College’s obligations under any collective agreement and are not intended to be interpreted as limiting or amending the provisions of any collective agreement. To the extent that these Information Practices may conflict with the College’s obligations under any collective agreement, the collective agreement prevails provided that its provisions do not conflict with PHIPA.

The Department Head(s) with the assistance of the Privacy Coordinator/Officer manage the College’s compliance with these Information Practices and PHIPA.

4.0 – Collection, Use and Disclosure of PHI

Collection of Your PHI will occur in compliance with applicable law, this policy and the Collection of Personal Health Information Procedure.

Purposes. The College will collect your PHI for the purposes of providing patient care, administration and management of our programs and services, patient billing, evaluating and improving the quality of services, research, teaching, statistical reporting, fundraising, marketing, meeting legal obligations and otherwise, as permitted or required by law. A College staff member or Custodian, of any of the services identified above, may collect your name, birth date, medical and health histories, medical condition, family medical history, Ontario Health Card number, and information to permit billing. Such collection may occur via an in-person visit, over the telephone or via electronic communication.

Consent. The College will handle your PHI only with your consent however, in some cases, we may collect, use or disclose your PHI without consent, but only as permitted or required by law. For consent to be valid, you must have capacity to consent and give consent directly. The consent must be voluntary, knowledgeable, and must relate to the information in question. The College will only collect your PHI directly from you, unless the law permits indirect collection from third parties. If you do not have capacity to consent, consent must be obtained from your substitute decision-maker, as defined under PHIPA.

New Purposes. When PHI that has been collected is to be used for a purpose not previously identified, the new purpose will be identified prior to use. Unless the new purpose is permitted or required by law, your consent will be required before the PHI can be used for that new purpose.

Limiting Principles. The College will only collect and use as much of your PHI as is reasonably necessary to provide the services and will make your PHI available only to those employees and Agents who require access in order to provide services. If de-identified information can serve the purpose of the collection, then the College will not collect your PHI. The College will not collect your PHI if other information will suffice.

Use per consent. The College will only use and disclose any PHI it receives from you in accordance with the purposes identified in the consent or as permitted or required by law.

Implied Consent for Health Care. Your PHI may be released to your other health care providers for health care purposes (within the “**circle of care**”) without your express written or verbal consent as long as it is reasonable in the circumstances to believe that you want the information shared with the other health care providers. No PHI will be released to other health care providers if you state that you do not want the information shared (for instance, by way of a “lockbox” on your health records, discussed below). Your request for treatment constitutes implied consent to use and disclose your PHI for health care purposes, unless you expressly instruct otherwise. The Counselling Services, Student Health Services and, Massage Clinic may share your PHI amongst themselves, in order to provide you with health care services, unless you instruct them otherwise.

Circle of Care. Who can be in the “circle of care” includes (among others in the College Community providing direct patient care if authorized by PHIPA):

Within the College	Outside the College
<ul style="list-style-type: none">• Physicians• Nurses	<ul style="list-style-type: none">• Hospitals• Long-term care homes

<ul style="list-style-type: none"> • Massage Therapists • Contracted Regulated Health Care Professionals • Locums • Medical students and residents • Nursing or other allied health care students 	<ul style="list-style-type: none"> • Family health teams/Family Health Organizations • Ambulance Services • Pharmacists • Laboratories • Regulated health professionals in sole practice or group • Social workers and social service workers • A centre, program, or service for community health or mental health
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Withdrawal of Consent. You may withdraw your consent at any time for the collection, use or disclosure of your PHI by providing written notice to the Privacy Coordinator or to the applicable College Health Service. After receiving your withdrawal of consent, the College will stop collecting your PHI but will still protect and maintain the PHI you gave before withdrawing your consent. You may also limit your Consent so that the College may collect and use certain types of information but not others. A limited or withdrawn consent may affect the scope of services that can be provided to you.

Lockbox: You may limit your consent so that even within the Circle of Care, your PHI may not be disclosed. This may affect your care and the College will notify other health care providers within the Circle of Care that you have directed them to limit disclosure of Your PHI.

No Disclosure. The College will not disclose your PHI to any affiliated or unaffiliated third party except with your consent or if such disclosure is permitted or required by law. If we disclose your PHI we will only disclose as much PHI as is necessary to meet the purpose of the disclosure and the College will not disclose your PHI if other information (such as, for example, de-identified information) will suffice.

Agents and Disclosure. PHI may only be disclosed within the limits of each Agent's role. Agents may not share, talk about, send or otherwise disclose PHI to anyone else unless that activity is an authorized part of their position. If an Agent, including a member of the College Community, is in doubt whether disclosure of PHI is part of his or her position, he or she should ask the Privacy Coordinator identified above.

Access Log. The College will maintain a log of access to, and disclosure of, PHI by the College and its Agents. The College may review and audit this log at any time.

The College's use and disclosure of your PHI will conform to applicable law, this policy and the Use and Disclosure of Personal Health Information Procedure.

5.0 – Safeguards to Protect Personal Health Information / Retention / Secure Disposal and / or Destruction

The College will employ appropriate safeguards to prevent theft, loss, and unauthorized access, copying, modification, use, disclosure, and disposal of PHI. The College has put in place safeguards for the PHI it holds, which include:

- physical safeguards (such as locked filing cabinets and rooms);
- organizational safeguards (such as implementing these policies and educating staff about them; permitting access to PHI by members of the College Community and Agents on a "need-to-know" basis only and ensuring staff sign confidentiality agreements); and
- technological safeguards (such as the use of passwords, encryption, and audits).

Revocation of Access. The College will ensure that its employees, retirees and volunteers who are terminated, resign, or no longer require access to PHI return all PHI to the College and can, thereafter, no longer access applications, hardware, software, network, and facilities belonging to the College. The College will immediately revoke an employee's, Agent's or volunteer's access if such individual inappropriately accesses, collects, uses, or discloses your PHI, or violates these information practices, and disciplinary action may result.

Retention. Health records are retained as required by law and professional regulations, and to fulfill the College's purposes for collecting PHI. For example, the regulations and standards of health regulatory Colleges and associations set out required record retention periods, and they apply to the PHI collected by the College or its Agents. There may be reasons to keep records for longer than the standard minimum periods set out in regulations or professional standards.

Secure Destruction. PHI that is no longer required to fulfill the identified purposes is securely destroyed, erased, or made anonymous in a manner that protects the confidentiality and security of your PHI. Destroyed PHI cannot be reconstructed or retrieved.

Accuracy. The College will take reasonable steps to ensure that Your PHI that we hold is as accurate, complete, and up to date as is necessary to minimize the possibility that inappropriate information may be used to make a decision.

6.0 – Accessing and Requesting Correction to Your PHI

You may make written requests to seek access to, or request correction of, the records of PHI that the College holds about you. The College will respond to your request for access within reasonable timelines and costs, as governed by law. The request should state that it is being made under PHIPA and should be made according to the Access to and Correction of Personal Health Information Procedure. The College will take reasonable steps to ensure that the requested information is made available in a format that is understandable. The College may not be able to provide access to all the PHI we hold about you; exceptions to the right of access will be in accordance with law. Examples may include information that could reasonably be expected to result in a risk of serious harm or information that is subject to a legal privilege.

Patients who successfully demonstrate the inaccuracy or incompleteness of their PHI may request that the College amend their information. In some cases, instead of making a correction, you may ask to append a statement of disagreement to your file. All requests for access must comply with this policy and will be handled by the College in accordance with this policy and procedure. You have the right to contact the College's Privacy Coordinator and the Information and Privacy Commissioner of Ontario regarding the College's information practices, your request for access or correction, or if the College does not provide you with the requested access.

To request access to, or correction of, the College's records of your PHI, please use the PHIPA Request Form.

7.0 – Privacy Breaches

A privacy breach occurs whenever a person contravenes a rule under PHIPA or these information practices or the Privacy Policy of the College, or related procedures, including in cases where PHI is lost, stolen or accessed by an unauthorized person. The College may conduct random audits, as deemed necessary by the College, of compliance with its privacy policies, these information practices and related procedures. Failure to comply, whether intentionally or inadvertently, may result in disciplinary action of the Agent or employee.

All Privacy Breaches must be reported immediately to the Privacy Coordinator in accordance with the Privacy Breach Procedure. If you have any questions, contact the Privacy Coordinator.

The Privacy Coordinator is responsible for all mandatory and annual reporting to the Information and Privacy Commissioner of Ontario.

8.0 – Accountability

The College will maintain privacy policies, such as this one, in accordance with Canadian and Ontario laws and these policies, and related procedures, will be made available for inspection on request. The College will educate its employees and volunteers on privacy laws and policies and take reasonable steps to ensure employee and volunteer compliance through training, confidentiality agreements, and employee sanctions. The College will ensure that any of its employees, Agents, subcontractors and volunteers who handle your PHI agree in writing to the same restrictions and conditions that apply to the College with respect to Your PHI.

You may ask questions or challenge the College's compliance with this policy or with PHIPA by contacting the College's Privacy Coordinator, identified above, who will:

- **receive** and respond to complaints or inquiries about College policies and practices relating to the handling of personal health information.
- **investigate** all complaints. If a complaint is found to be justifiable, the College will take appropriate measures to respond.
- **inform** you about other available complaint or review procedures (for example, the Patient Ombudsman).

The Information and Privacy Commissioner of Ontario ("IPC") oversees the College's compliance with privacy rules and PHIPA. Anyone can make an inquiry or complaint directly to the IPC by writing to or calling:

Information and Privacy Commissioner of Ontario

2 Bloor Street East, Suite 1400

Toronto, Ontario M4W 1A8 Canada

Phone: 1 (800) 387-0073 (or 416-326-3333 in Toronto)

Fax: 416-325-9195

www.ipc.on.ca

The College conducts routine assessments of new and modified work processes or systems, as

well as operational compliance with this policy, College procedures and with PHIPA. The College will review these information practices routinely. The College will report annually to the Information Privacy Commissioner of Ontario on its processing of access requests and will make such reports available publicly

9.0 - Related Documents

- Access to and Correction of Personal Health Information Procedure
- Collection of Personal Health Information Procedure
- Use and Disclosure of Personal Health Information Procedure
- PHIPA Request Form
- PHIPA – *Personal Health Information Protection Act, 2004*
<https://www.ontario.ca/laws/statute/04p03>
- Access to Information and Protection of Privacy Policy
- FIPPA – *Freedom of Information and Protection of Privacy Act*
<https://www.ontario.ca/laws/statute/90f31>

10.0 History of Amendments/Reviews

N/A