



POLICY

POLICY SECTION	POLICY NAME Consent to Release Information	POLICY SECTION
SUBSECTION	RESPONSIBILITY CEO	APPROVED BY CEO
EFFECTIVE/REVISED DATE	LAST DATE REVIEWED:	NEXT REVIEW DATE

POLICY

POLICY:

Lumenus takes steps to ensure it meets privacy principles and requirements with respect to personal health information under applicable privacy legislation. The purpose of this policy is to ensure that clients/participants are informed about how we collect, use, disclose and protect their personal health information under the authority of the Personal Health Information Act (PHIPA 2019)

Lumenus supports the sharing of useful and relevant client information, when it will help the client/participant with other service providers and community resources. However, the agency respects the client's/participant's right to confidentiality and privacy. Except where permitted by law such as under the Child Youth and Family Services Act, information will not be released without the signed consent of the client and/or his or her guardian.

Clients/participants or legal guardians have the right to access information contained in their record under the 'Personal Health Information Act' (2004) and the 'Freedom of Information and Protection of Privacy Act' (1990) and Part X of the Child, Youth, and Family Services Act (2020). Information can only be withheld if it is subject to a legal proceeding or court order and the agency has been ordered not to release, and/or if the judgement of the lead authority is that full access to the record would likely result in risk of serious harm to an individual, or would violate the privacy of another person. Clients/participants or legal guardians also have the right to request corrections or changes to their information contained in the record. Detailed procedures for accessing client information are described in the attached procedure document.

PROCEDURES:

Personal Information We Collect

Lumenus and its employees collect personal health information in a number of circumstances in the course of providing services. These employees are referred to as Health Information Custodians under the PHIPA. Personal health information we collect:

- Name, address, telephone number(s), other business and residential contact information;
- Birth date;
- Client/participant/family health history relevant for client case assessment, treatment planning and treatment provision;
- Other information we may collect with consent or as permitted or required by law.

At intake, staff will review the agency's policies and practices regarding the collection, use, release, and protection of personal information with clients/participants and/or legal guardian and/or substitute decision-maker when they sign the "Consent and Agreement to Participate in Service".

Use of Personal Information

The information provided will primarily be used to deliver services, for professional supervision and quality assurance purposes, including accreditation, and to keep the client/participant/family informed about Lumenus programs, services and special events.

Lumenus uses a team approach to service delivery, including students, trainees, and volunteers. In many situations we provide integrated care with other agencies and in order to provide the best care to client//participant/family we may share information with other service providers within the network of care. Client/participant/family will be informed that information may be shared among members of the team, both internal and external to the agency.

Unless otherwise directed not to do so by the client/participant, the information may also be used by individuals engaged in reviews of the agency's practices including quality assurance; evaluation; research; accreditation; and licensing procedures. These individuals are required to sign a confidentiality agreement and will not remove client/participant files from the agency's premises. In addition, information is used to provide data related to funding needs, volunteer opportunities, and to publicly recognize donations supporting new agency. Staff may only collect and use personal information for the purposes listed above and within legal limits such as requirements to follow guidelines related to duty to report.



Disclosure of Personal Health Information

Lumenus will not willingly disclose information obtained in confidence from an individual without proper consent, or unless required by law. Lumenus may breach confidentiality if it is believed there is a significant risk that a client/participant may seriously harm self or others.

All clients/participants and/or a legal guardian or substitute decision maker will be required to sign the “Consent to Disclose and Receive Personal Health Information” form when agreeing to the sharing of information between Lumenus and another external service provider.

Only the Lumenus Consent to Disclose and Receive Personal Health Information or a form from another organization that contains all of the required information will be accepted as authorization to release or obtain client/participant information. The consent form will clearly identify the name of the organization and staff person releasing and obtaining the information, the client/participant name, the specific information being released or obtained, and the purpose for which it is required. Information on the form will identify any limits on consent such as time period or limits on use of the shared information. The form will be properly signed, dated, and witnessed with an expiry date not exceeding one calendar year. The signed consent will be kept in the required file. When unable to sign the form, at the client’s/participant’s request, expressed verbal consent will be accepted and noted in the file. The worker noting the consent will fill out the required form noting date, time and client’s/participant’s request.

Clients/participants are able to request a restriction on certain uses and disclosure of personal health information, or withdraw authorization to use or disclose their information, unless restricted by law. This request will be noted in the file, and the client/participant will be informed if it can be followed as long as the request does not render service futile or harmful.

Clients 12 years of age or older who are receiving counselling services and understand the concept of consent, are able to sign the Consent to Disclose and Receive Personal Health Information without parental or guardian consent. For children under the age of 12, parental or guardian consent is required. When a request for information is received from another service provider, police, or a third party, the case manager or primary worker will review the client’s file with the client and the designated authority before releasing any information.

Youth Criminal Justice Act

Under the Youth Criminal Justice Act, it is an offence to disclose any identifying information about not only convicted young persons, but also alleged young persons, young persons who are victims of such offences, and young persons who may be witnesses to such offences, as well as any information relating to offences or alleged



offences in which above individuals are involved. Identifying information includes names, telephone numbers, employment information, gender, health information, etc.

Even with a young person's (or their parent/guardian/caregiver's) consent, their record or identity cannot be disclosed except as per the disclosure provisions of the Youth Criminal Justice Act. There are certain exceptions to this broad rule that are specifically outlined in the Act. The Youth Criminal Justice Act does permit limited exceptions to the disclosure rules when sharing information for the purposes of administering a disposition.

Exceptions

The client and/or parent(s)/guardian(s)/caregiver(s) have the right to confidentiality and to determine what information about themselves the Centre may release. No identifying information about a client is disclosed to others except with the consent of the client, a Court Order, or as otherwise required by law, except where failure to disclose may cause serious harm to the client or others.

Confidentiality may not be maintained and information may be disclosed without the written consent of the client/participant/parent/guardian/caregiver under the following circumstances:

- to any Centre employees who require information to perform their duties;
- to Centre consultants, staff and volunteers, where Centre staff consider the information to be a necessary component of an assigned task or duty;
- to professional advisors to the Centre who require access to the Client Record to perform their duties;
- to affiliated care or service providers or peace officers (police) where:
 - failure to disclose Client Record information is likely to cause serious physical or emotional harm to the person who is the subject of the information or another person;
 - the need for disclosure is urgent;

NOTE: The worker takes whatever action is deemed necessary to ensure the safety and protection of an individual.

- to a person providing medical treatment where:
 - failure to disclose Record information is likely to cause serious physical or emotional harm to the person who is the subject of the information or another person;
 - the need for disclosure is urgent;

NOTE: The worker takes whatever action is deemed necessary to ensure the safety and protection of an individual.

- to the police in the course of an investigation of a child's alleged need for protection;
- to a Children's Aid Society (CAS) in circumstances in which it is deemed that a child is or may be in need of protection;



NOTE: Where there are concerns regarding the protection of children, reporting child abuse or responding to a CAS investigation of abuse, to the extent that it is possible and advisable, the worker informs the client/parent/guardian/caregiver of the matter and seeks their consent to the disclosure of information.

- to Ministry program supervisors, legal counsel or other designated staff of the Ministry;

NOTE: Ministry staff request to review Client Records as part of an agency inspection in order to verify agency service. Specific procedures and safeguards to minimize intrusion on privacy are outlined in Confidentiality/Client Record/Ministry.

- to any person or agency authorized by law to receive the information (i.e. the Ombudsman);
- as otherwise required by a subpoena, warrant or Court Order compelling the Centre to disclose the information;

NOTE: Where there is a Court Order for the release of records, the worker seeks clarification as to whether it is possible to present a summary of information or to request that certain information not be released.

- to designated Board Members in circumstances in which it would be otherwise impossible for the Board of Directors to fulfil its function and obligations (i.e. service complaint).

Disclosure of Client Record information in all other circumstances requires consent of the subject of the information.

In situations in which a Client Record or other client information is requested by the police, the court or other persons or organizations in the absence of client consent, the Client Record is not to be released without the approval of the Chief Executive Officer or designate.

Youth Criminal Justice Act Disclosure Provisions

In situations where the client is involved in the Centre as a requirement of the YCJA and/or the Client Record contains information regarding the client's involvement in the YCJA (i.e. a residential client with a probation order), the Supervisor and/or Director also ensure that:

- information is removed/blacked out that would lead to the identification of the client as having involvement with the YCJA;
- that information that relates to family members who have not consented to the release of information be removed/blacked out;
- that information that does not specifically relate to the young person be removed/blacked out (i.e. program information).

In situations where the client is receiving service as a result of a youth justice disposition, the clinical file includes a written caution statement on the front of the file or is flagged in the CR, which draws attention to YCJA privacy provisions and indicates that they are young person files.

Disclosure of Information without Client Consent

The Centre advises clients/participants that in certain situations, the Centre cannot maintain its commitment to confidentiality and is obliged to report a matter to the appropriate authorities (i.e. where the Centre is concerned about a client disclosing an allegation of abuse or other indication that the client may be in need of protection, the health and safety of an individual [i.e. imminent danger to self or others] or in response to other legislative requirements).

In these situations, the Worker and Supervisor:

- consider the client/participant and/or parents/guardians/caregivers right to confidentiality;
- consider the Centre's responsibility to meet legal and ethical requirements regarding health, welfare and safety of the client/participant or others;
- determine whether to disclose Client Record information without consent;
- indicate the basis upon which the determination has been made;
- develop a plan to notify the appropriate authorities in accordance with Centre policies and procedures;
- follow Centre policies and procedures in informing the client/participant and/or parent(s)/guardian(s)/caregiver(s) of:
 - the need to disclose information and on what grounds;
 - the fact that information has been disclosed.
- document the disclosure in the record as an event In case of uncertainty or dispute, or when required by policy, the Director and/or Chief Executive Officer is involved.

Even with a young person's (or their parent/guardian/caregiver's) consent, their record or identity cannot be disclosed except as per the disclosure provisions of the Youth Criminal Justice Act and its Regulations. There are certain exceptions to this broad rule that are specifically outlined in the Act. The Youth Criminal Justice Act does permit limited exceptions to the disclosure rules when sharing information for the purposes of administering a disposition.

Every effort will be made to protect information relating to a third party participant (i.e. sibling, step-parent, etc.) unless Consent to Disclose and Receive Personal Health Information is signed by the identified participant. Information received by this agency from another service provider will not be released unless the client/participant has provided consent. Where the information sharing is in the client's/participant's best interests and supports continuity of care, the worker will discuss the benefits and risks the client/participant derives from sharing this information with other health-care professionals and/or those who form the client's/participant's "Circle of Care". Lumenus will always request expressed consent to share information. Psychiatric or



any other specialized reports, which are written on behalf of Lumenus, may be released but only after consultation with the report's author.

Following receipt of the signed Consent to Disclose and Receive Personal Health Information the agency will follow mandated documentation procedures.

If Toronto Police Services, or police services from another jurisdiction, requests information about a client it must be with consent or required by law.

Lumenus does not sell or trade any personal information including mailing lists.

Security

Lumenus ensures that records of personal information in its custody are retained, transferred and disposed of in a secure manner. The requirements for these procedures are contained in Lumenus policies related to record retention and storage.

Personal Health Information is protected using physical, electronic or procedural security measures appropriate to the sensitivity of the information in our custody or control. This will include safeguards to protect against loss or theft, as well as unauthorized access, disclosure, copying, use or modification.

Client/participant Access and Correction to the Record

Clients/participants who wish to request access to or make a correction to their personal information in our custody or control, can address this request in writing to the attention of the Privacy Officer.

The right to access a file is subject to applicable restrictions. The Privacy Officer may deny all or part of a request based on several criteria such as:

- Parents/guardians of clients 12 years of age or older who initiated their own counselling do not have the right to access the youth's clinical record without the youth's consent;
- In the opinion of the Privacy Officer or their designee, viewing the record could result in physical or emotional harm to the client or another individual;
- Is subject to a legal proceeding or court order and the agency has been ordered not to release information;
- The information was collected or created during an inspection, investigation or similar procedure;

A client/participant may request information contained in their record be corrected if they believe it is inaccurate or incomplete. A correction will be made except when:

- The record was not created by Lumenus;
- The record consists of a professional opinion made in good faith;



Corrections should record the correct information by striking out incorrect information or labelling it incorrect. Once corrected the client can request that, if reasonable, anyone with whom the information was shared is informed of the correction.

If Lumenus does not agree to the correction the client may prepare a statement of disagreement which will be attached to the record.

Lumenus will respond within 30 days of receiving a client request to access or correct a file and will provide reasons should access or the requested correction be denied. Any changes to a file will be initialed by the Privacy Officer. Inquiries or complaints related to personal health information practices can be addressed in writing or by telephone to the Privacy Officer.

Privacy Officer

The LUMENUS privacy officer is ()

Privacy Breach

Clients/participants will be notified if their information is lost, stolen, or used without authorization. Staff are required to inform the Privacy Officer in the event of a real or suspected privacy breach. In the event of a privacy breach Lumenus will make efforts to contain it to the best of its ability. A Serious Occurrence Report will be filed with the appropriate Ministry as required. Risk avoidance measures will be taken to lessen further breach possibilities. Clients/participants and the public are made aware of the agency's privacy breach procedures on the agency website.

Compliance

Staff will understand and comply with the provisions of the Personal Health Information Protection Act. Lumenus will annually review and assess compliance by means of a random file audit and during supervision. Non-compliance by staff or agency partners may result in corrective action including termination of employment or working agreement.

