

CATEGORY:	Client Records, Information and Privacy
TITLE:	CR-11-50 Privacy and Information Practices Policy
POLICY:	CR-11-50
ADOPTED:	June 2012
APPROVED BY:	Executive Director
REVIEWED:	May 2013 (n/c) June 2014 (n/c) November 2015 (r) May 2018 (r) August 2018 (r)

This policy consolidates and replaces the following pre-existing policies:

- Privacy and Information Practices, CR-11-45
- Contact Hamilton Privacy Statement, CR-11-50
- Consent for the Collection, Use and Disclosure of Personal Health Information, CR-11-55
- Clients Requesting Access to their own Records, CR-11-65

Privacy is Important

Contact Hamilton for Children’s and Developmental Services (“Contact Hamilton”) is committed to meeting the highest standard of ethics and compliance with respect to maintaining the privacy of individuals and confidentiality of the personal information that we collect, use and disclose. Accordingly, Contact Hamilton strives to provide appropriate privacy rights to our clients by following this Privacy and Information Practices Policy. Contact Hamilton’s activities are not governed by the federal privacy legislation, the Personal Information Protection and Electronic Documents Act or the Ontario privacy legislation, the Personal Health Information Protection Act, 2004. Contact Hamilton’s activities, in administering its Children’s Services program, are governed by the Ontario legislation, Child, Youth and Family Services Act, 2017, including Part X: Personal Information. This Privacy and Information Practices Policy applies to all personal information collected, used and disclosed by Contact Hamilton, whether or not that personal information is subject to the Child, Youth and Family Services Act, 2017.

Every employee, student, volunteer, Board member and authorized agent of Contact Hamilton must adhere to a policy of maintaining privacy of individuals and confidentiality with respect to personal information that they may obtain through the course of their involvement with Contact Hamilton, which includes adherence to this Privacy and Information Practices Policy. This policy will be reviewed and signed by every employee, student, volunteer, Board member and authorized agency when the individual first becomes involved with Contact Hamilton and continues in effect indefinitely.

Defining Personal Information

Personal information is recorded information about an individual. It includes the following information:

- race, national or ethnic origin, colour, religion, age, sex/gender, sexual orientation, or marital or family status of the individual,
- information relating to education of the individual,
- information relating to medical, psychiatric, psychological history of the individual, such as diagnosis, prognosis, condition, treatment, or evaluation,
- information relating to criminal history of the individual,
- information relating to employment history of the individual,
- information relating to financial transactions, such as credit card number or bank account information,
- any identifying number (e.g., social insurance number), symbol, or other particular assigned to the individual,
- home address, home telephone number, personal e-mail address,
- fingerprints or blood type of the individual,
- personal opinions or views of, or about, the individual,
- correspondence (e.g., e-mail, letter) sent to Contact Hamilton by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the details of the original correspondence, and
- name where it appears with, or reveals, other personal information.

Personal information does not include the name, title, or business contact information (e.g., work address including office location, work telephone number, work e-mail address, work fax number) of an individual.

Defining Client

For the purposes of this policy, “client” means the identified person for whom Contact Hamilton’s services are being sought.

Privacy Principles

The following privacy principles reflect Contact Hamilton’s commitment to the policy:

1. ACCOUNTABILITY

Contact Hamilton is responsible for maintaining and protecting the personal information under its control. The Executive Director is accountable for Contact Hamilton’s information practices and is the Privacy Officer for access or correction requests, inquiries and complaints from clients or the public. The Executive Director will also ensure that staff understand their responsibilities with respect to this policy, either directly or through delegation to the Manager.

2. IDENTIFYING PURPOSES

Contact Hamilton collects and uses personal information for the following purposes:

- To determine eligibility for services

- To determine needs and the services required as well as the urgency/priority of the need for those services
- To complete the required application processes. This will include information that is commonly used/required by the children's or developmental services sectors. This will reduce the need for individuals/families to re-tell information.
- To identify a service provider to respond to needs and to monitor status with respect to accessing those services. This includes referral status dates (waiting date, start date, cancelled date, discharge date).
- To assist with planning of the children's and/or developmental services system
- For quality assurance purposes, including feedback on how effective and helpful our services have been, to allow us to improve our services
- To comply with all legal and regulatory requirements
- To contact individuals and families regarding upcoming events, activities and programs that may be of interest.

Contact Hamilton uses and discloses anonymous information to comply with the Ministry of Children, Community and Social Services (MCCSS) information requests. These requests are usually about general trends and patterns such as waiting lists.

Contact Hamilton uses and discloses anonymous information for planning, research and program evaluation purposes and for education and professional development of Contact Hamilton staff.

Where practical, Contact Hamilton will make a reasonable effort to specify the identified purposes to the client before or at the time of the collection of personal information or after collection of personal information but before use.

3. CONSENT

An individual's consent will be obtained for the collection, use or disclosure of personal information except where permitted or required by law. A capable individual regardless of age can consent to the collection, use or disclosure of his/her own personal information. If the individual is incapable of consenting to the collection, use or disclosure of his/her own personal information, another individual may consent on that person's behalf.

Consent may be implied or express. Express consent may be provided orally, electronically or in writing.

With consent, Contact Hamilton discloses personal information to third parties including:

- Other agencies, professionals, schools, hospitals and others who are involved in a client's care, education and/or treatment
- Other agencies and professionals who provide services and supports that may be able to respond to needs
- Other individuals identified as contacts such as family members or friends

A consent given for the disclosure of a client's record shall specify:

- a) What information is to be disclosed
- b) The purpose of the disclosure
- c) To whom the record is to be disclosed
- d) Whether the consent authorizes the further disclosure of the record by the person referred to in clause c) and if so, to whom and for what purposes and
- e) The period of time during which the consent remains effective, unless revoked

Completed consent forms are filed in the client's personal record and in the client databases.

Contact Hamilton may disclose personal information without consent where permitted or required by law. For example:

- Reasonable grounds to suspect a child is in need of protection under section 125 of the Child, Youth and Family Services Act, 2017
- Any alleged, suspected, or witnessed incidents of abuse of an adult with a developmental disability if Contact Hamilton suspects the incident may constitute a criminal offence, under Regulation 299/10 of the Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008
- Required by the Ministry of Children, Community and Social Services, including the Minister of this Ministry
- Reasonable grounds to believe that there is a significant risk of serious bodily harm to a person or another person

Disclosure of a client's record of a mental disorder must be made without consent, pursuant to a summons, order, direction, notice or similar requirement unless a physician states in writing he or she believes that to do so,

- a) Is likely to detrimentally affect the treatment or recovery of the person to whom the record relates or
- b) Is likely to result in
 - a. Injury to the mental condition of another person or
 - b. Bodily harm to another person.

(section 294 of the Child, Youth and Family Services Act, 2017)

Regarding withdrawal of consent, by providing notice, a client may withdraw consent for the collection, use or disclosure of his or her personal information. The withdrawal of consent shall not have a retroactive effect. This means that a client cannot withdraw consent for any collection, use or disclosure of personal information that has already taken place. In cases where the disclosure of personal information is permitted or required by law, the client cannot withdraw consent. A withdrawal of consent will be noted in the case notes where applicable. In addition, the end date of the consent will be changed to reflect the date that the consent was withdrawn where applicable.

4. LIMITING COLLECTION

Contact Hamilton will limit the collection of personal information to only that which is necessary for the purposes identified. Contact Hamilton will not collect information if other information will serve the purpose of the collection.

When a potential new client inquires about the services that can be accessed through Contact Hamilton, some personal information will be collected and express oral consent will be sought at that time. If the client does not want personal information to be collected or to answer questions to determine eligibility for services, it may not be possible to proceed further.

Once a client is determined eligible for service, the Contact Hamilton staff will discuss the collection of personal information with the client/family, the creation of a personal record and the purpose(s) of doing so. If the client/substitute decision maker decides to proceed to the intake process, a client record will be created. A case note will be entered in the client's record to indicate that express consent was received for this step. An intake/application interview will be established.

Contact Hamilton will make its Privacy and Information Practices Policy available on its website and in its Reception area, accessible to all visitors. Further, upon the scheduling of an intake appointment for a new client, Contact Hamilton staff will advise of the Privacy and Information Practices Policy and how to access it. A copy of this policy can be requested at any time by anyone and it will be emailed, mailed or faxed to them as desired.

At the beginning of the intake/application interview, the Contact Hamilton staff will review the intake process and the nature and purpose of the information collection. Contact Hamilton staff will confirm consent to proceed with the information collection. A case note will be entered in the client's record to indicate that express consent was received for this step.

Personal information will be collected directly from the client to the greatest extent possible. More often than not, however, such information may be collected indirectly with the client's consent e.g. from a client's parent/primary caregiver, substitute decision maker or other authorized person.

5. LIMITING USE, DISCLOSURE AND RETENTION

Contact Hamilton will not use or disclose personal information if other information will serve the purpose of the use or disclosure. Personal information will be retained only as long as necessary for the fulfillment of its purpose(s) or required by law.

6. ACCURACY

Contact Hamilton and its staff will take reasonable steps to ensure that the personal information it uses and discloses is as accurate, complete and up-to-date as may be necessary to fulfill the purposes for which it is to be used or disclosed.

7. SECURITY AND SAFEGUARDS

Contact Hamilton stores personal information in paper and electronic files. Contact Hamilton endeavours to maintain appropriate security safeguards with respect to its offices and information storage facilities so as to prevent any loss, theft, misuse, unauthorized access, disclosure, copying or modification of personal information. This also applies to our disposal or destruction of personal information.

If any employee, individual or organization misuse personal information, this will be considered a serious issue for which action may be taken up, up to and including termination of any agreement between Contact Hamilton and that employee, individual or organization.

Contact Hamilton has implemented the following physical measures to ensure that personal information is protected:

- Only authorized Contact Hamilton personnel or approved contractors are permitted to enter locations unescorted where client records are accessible, either in hard copy or on a computer screen. This is reinforced by signage as well as vigilance on the part of employees.
- Client records are stored centrally in locked file cabinets or in the locked storage cupboard at the end of every day.
- The offices are locked after-hours and is protected by a security system.
- Policy regarding storage of client files in satellite offices (co-located with another agency).

Technological security measures include:

- Passwords, user IDs
- Firewalls
- Secure transmission of data
- Secure storage of data
- Back-up systems (hard copy, daily back up of electronic storage)

The following administrative controls have been implemented to protect a client's personal information:

- Mandatory confidentiality agreements for Contact Hamilton staff and volunteers
- Mandatory staff and board training on privacy
- Contact Hamilton's personnel's access to a given client's records is limited to those personnel requiring access to the records and limited to only accessing the information that is required to fulfill their roles and responsibilities
- Contact Hamilton has implemented a number of safeguards with respect to authorized copying, modification and disposal of records e.g. a shredding process is used to destroy records prior to disposal.
- Records are retained, transferred and disposed of in a secure manner.
- Hard copy client records remain on the premises at all times, with limited exceptions
- Storage of client records on laptops or desktops is prohibited

- Electronic records containing identifying personal information may only be transmitted if encryption methods are implemented. Our databases satisfy these requirements.
- Fax numbers are pre-programmed wherever possible and maintained centrally (e.g. WebTracker, electronic rolodex, fax machine, copier). Wherever possible, Contact Hamilton limits the number of staff who are responsible for sending out faxes with personal information, e.g. administrative staff.
- In the event of a breach in the security of a client's personal information by a Contact Hamilton staff member, the staff member must notify the Executive Director (Privacy Officer) at the first reasonable opportunity. A reporting form is available.

8. OPENNESS

Contact Hamilton is responsible for providing information to individuals about its policies and procedures relating to the management of personal information that is under its control. This document (Contact Hamilton's Privacy and Information Practices Policy) constitutes our written policy describing Contact Hamilton's information practices and is available in hard copy.

In the event a client's personal information has been stolen, lost or accessed by an unauthorized person, our first priority will be to identify and contain the breach and then to take steps to correct it. Contact Hamilton may notify a client whose personal information may have been disclosed, lost or stolen in an unauthorized manner at the first reasonable opportunity where this is deemed an appropriate level of response. In this case, a case note will be made in the person's record indicating the date of the occurrence, nature of the breach, communication with the person and the individual's response.

If the breach in security is detected or caused by a staff member of Contact Hamilton, the staff member must notify the Executive Director (Privacy Officer) at the first reasonable opportunity. The staff member with the greatest involvement or knowledge of the circumstances will take responsibility for completing the Privacy Incident Form. There may be a need to collaborate with another staff member(s) when investigating and documenting the circumstances of the incident. A Privacy Incident Form is completed and forwarded to the Executive Director.

9. INDIVIDUAL'S ACCESS

When requested, an individual will be informed of the existence, use and disclosure of their personal information that is under Contact Hamilton's control and has a right of access to that personal information as permitted by law. Individuals are entitled to challenge the accuracy and completeness of that personal information and request that it be amended. If its accuracy or completeness is successfully challenged, Contact Hamilton will amend the information. If its accuracy or completeness is not successfully challenged, Contact Hamilton will place a note in the client's record.

10. HANDLING INQUIRIES AND COMPLAINTS

Any questions or inquiries or complaints concerning compliance with the Privacy and Information Practices Policy and procedures may be directed to the Executive Director (Privacy Officer):

Lea Pollard
Executive Director
140 King Street East, Suite 4, Hamilton, ON L8N 1B2
905-570-8888/ 1-877-376-4674
privacy@contacthamilton.ca

Information and privacy practices are regularly reviewed and policies are updated as indicated.

Clients Requesting Access to their Record

As a general rule, every Contact Hamilton client who is 12 years of age or older has a right to access his/her own record of personal information.

A record is defined as a record of information, in any form or in any medium, whether in written, printed, photographic or electronic form. The information in the record is recorded in connection with the provision of a service to the client or a member of the client's family and is under the control of Contact Hamilton.

The decision to grant or deny access will be determined by the possibility of consequent risk. The Contact Hamilton staff member based on his/her judgement and knowledge of the client and in consultation with their Manager, will make this determination.

Where restrictions apply, the client has a right of access to that part of the record that can reasonably be severed from the restricted part of the record.

PROCEDURE: CLIENTS REQUESTING ACCESS TO THEIR RECORDS

- 1 - Clients may request access to their records by making a written request to Contact Hamilton's Privacy Officer.
- 2 - All written requests for access to records will be managed by the Manager in consultation with the involved Contact Hamilton staff member.
- 3 - The written request for access must provide sufficient information to permit Contact Hamilton to locate the record. The request for access to a client's record will be documented in the client record. Where access has been granted to a client's record, it will be documented as part of the record.
- 4 - If a client requests access to their record after their record has been closed, the client must direct their request, in writing, to the Manager or designate.

5 - Contact Hamilton will make reasonable efforts to respond to the written request within 30 days. At that time, the client will be informed in writing whether or not access will be provided to their records.

6 - The client will be allowed to access the record at a mutually agreed upon time. Contact Hamilton staff will assist the client to ensure the appropriate level of understanding of all the accessed information in the record. Contact Hamilton may redirect the client to the appropriate practitioner (e.g. physician, social worker) for any sensitive medical or other information to be made available to the client. In addition, information about the use that has been made of this information and information about the third parties to which it has been disclosed will be provided.

7 - Due to the importance of ensuring the integrity of the records, a Contact Hamilton staff will be present at all times while the client or family member is reviewing their record. Contact Hamilton will provide a print out of every screen of the client's electronic record.

8 - A request for copies of part of the record or the complete record will be processed in the same manner. Additional time may be required to prepare the necessary support documentation, such as an explanation of abbreviations and codes used in the record. Prior to releasing a copy of the record, a Contact Hamilton staff member will meet with the requestor to review the information contained within the record. Contact Hamilton may at their discretion charge a minimal fee to cover the costs associated with copying the record.

PROCEDURE: DENYING ACCESS TO RECORDS

If a Contact Hamilton staff member determines that the client should not have access to part or all of their record, they must discuss this with the Manager prior to action being taken.

The decision and reason for denying a client access will be documented in the client's record.

The client will be notified in writing of the reason(s) that access has been denied, in whole or part.

Parents/Legal Guardians Requesting Access

The parent(s) of a client have a right of access to the client's record as permitted by the law.

It is the Contact Hamilton staff member, based on his/her judgement and knowledge of the client, who determines whether a possibility of consequent risk exists.

There are exceptions to this right of access which include:

- The Contact Hamilton staff member may withhold parts of the record from the parent/legal guardian or provide a summary on the basis of the staff member's

judgement that there is a significant likelihood of a substantial adverse effect on the client's physical, mental or emotional health or harm to a third party if full access is provided.

Related and complimentary policies regarding Privacy:

- CR -11-30 (Client Records)
 - o Documentation Standards Policy
- CR-11-50 (Client Records)
 - o Privacy and Information Practices Policy
- CR-11-55 (Client Records)
 - o Privacy and Security Breach Policy
- CR-11-60 (Client Records)
 - o Consent Policy
- RM-07-30 (Risk Management)
 - o Business Continuity: Communications Policy
- C-08-20 (Communications)
 - o Handling Complaints Policy
- RM-07-03 (Risk Management)
 - o Overarching Security of Information Policy