

	Manual: ADMIN	Section/ Department: ADM	Policy Number: POL/30	Pages: 1 of 8	
Subject: PRIVACY AND THE PROTECTION OF PERSONAL HEALTH INFORMATION				Area of Focus: Administration <input checked="" type="checkbox"/> Resident Services <input type="checkbox"/>	
Effective: 18/03/2005	Last Revised: 28/04/15	Supersedes: 23/10/2013	Next Review: 30/04/16	Approved By: VILLA EXECUTIVE TEAM	

1.0 PURPOSE

To outline to residents, families, staff, volunteers and members of the community the Villa's methods to ensure that resident personal health information is private and confidential.

2.0 POLICY

St. Joseph's Villa will comply with legislation as outlined in the Personal Health Information Protection Act (PHIPA) and all other relevant privacy/confidentiality legislation with regard to resident personal health information.

3.0 MATERIALS REQUIRED

4.0 PROCEDURE

4.1 Accountability

St. Joseph's Villa is responsible for personal information under its control and shall designate an individual or individuals who are accountable for the organization's compliance with the following principles.

- 4.1.1 The Site President of St. Joseph's Villa has ultimate accountability for protecting the personal information of clients and residents. The Site President may be supported in this activity by delegating the day-to-day operational privacy responsibilities to another individual(s). All staff share responsibility for adhering to St. Joseph's Villa's privacy policies and procedures.
- 4.1.2 The name and contact information the individual(s) designated by St. Joseph's Villa to oversee the Villa's compliance with the principles is available upon request.
- 4.1.3 St. Joseph's Villa is responsible for personal information in its possession or custody, including information that has been transferred to a third party for processing. St. Joseph's Villa will use contractual or other means to provide a comparable level of protection while the third party is processing the information.

- 4.1.4 St. Joseph's Villa shall implement policies and practices to give effect to this policy, including
- (a) implementing procedures to protect personal information;
 - (b) establishing procedures to receive and respond to complaints and inquiries;
 - (c) training staff and communicating to staff information about St. Joseph's Villa

4.2 Identifying Purposes

St. Joseph's Villa shall identify the purposes for which personal information is collected at or before the time the information is collected. The primary purposes are the delivery of care and services, quality management, research, billing, and meeting legal and regulatory requirements.

- 4.2.1 Identifying the purposes for which personal information is collected at or before the time of collection allows St. Joseph's Villa to determine the information required to fulfill these purposes.
- 4.2.2 The identified purposes are specified at or before the time of collection to the individual from whom the personal information is collected. Depending upon the way in which the information is collected, this can be done orally or in writing. An admissions or application for services form, for example, may give notice of the purposes.
- 4.2.3 When personal information that has been collected is to be used for a purpose not previously identified, the new purpose shall be identified prior to use. Unless law requires the new purpose, the consent of the individual is required before information can be used for that purpose.
- 4.2.4 Persons collecting personal information should be able to explain to individuals the purposes for which the information is being collected.

4.3 Consent

The knowledge and consent of the individual are required for the collection, use, or disclosure of personal information, except where inappropriate.

Note: In certain circumstances personal information can be collected, used, or disclosed without the knowledge and consent of the individual. For example, legal, medical, or security reasons may make it impossible or impractical to seek consent. When information is being collected for the detection and prevention of fraud or for law enforcement, seeking the consent of the individual might defeat the purpose of collecting the information. Acquiring consent may be impossible or inappropriate when the individual is cognitively impaired, seriously ill or psychotic and the substitute decision maker is not available. Organizations are advised to follow the rules provided in the Health Care Consent Act and Substitute Decisions Act.

- 4.3.1** Consent is required for the collection of personal information and the subsequent use or disclosure of this information. Typically, St. Joseph’s Villa will seek consent for the use or disclosure of the information at the time of collection. In certain circumstances, consent with respect to use or disclosure may be sought after the information has been collected but before use (for example, when St. Joseph’s Villa wants to use information for a purpose not previously identified).
- 4.3.2** The principle requires “knowledge and consent”. St. Joseph’s Villa shall make a reasonable effort to ensure that the individual is advised of the purposes for which the information will be used. To make the consent meaningful, the purposes must be stated in such a manner that the individual can reasonably understand how the information will be used or disclosed.
- 4.3.3** St. Joseph’s Villa as a condition of the supply of a product or service, requires an individual to consent to the collection, use, or disclosure of information beyond that required to fulfill the explicitly specified and legitimate purposes.
- 4.3.4** In obtaining consent, the reasonable expectations of the individual are also relevant. Consent shall not be obtained through deception.
- 4.3.6** The way in which St. Joseph’s Villa seeks consent may vary, depending on the circumstances and the type of information collected. In determining the form of consent to use, St. Joseph’s Villa shall take into account the sensitivity of the information. St. Joseph’s Villa will generally seek express consent when the information is likely to be considered sensitive, or the information will be used for purposes beyond the provision of health care. Implied consent would generally be appropriate when the information is less sensitive, or the information is to be used in the provision of health care. An authorized representative can also give consent. St. Joseph’s Villa will follow the rules for an authorized representative provided in the Substitute Decisions Act, and outlined in ADM-POL/20 “Consent to Treatment”.
- 4.3.7** Individuals can give consent in many ways. For example:
- (a) an admission form may be used to seek consent, collect information, and inform the individual of the use that will be made of the information. By completing and signing the form, the individual is giving consent to the collection and the specified uses;
 - (b) a check-off box may be used to allow individuals to request that their names and addresses not be given to other organizations. Individuals who do not check the box are assumed to consent to the transfer of this information to third parties;
 - (c) consent may be given orally when information is collected over the telephone; or
 - (d) consent may be given at the time that individuals use the Villa’s products or services.

- 4.3.8 An individual may withdraw consent at any time, subject to legal or contractual restrictions and reasonable notice. St. Joseph's Villa will inform the individual of the implications of such withdrawal.

4.4 Limiting Collection

The collection of personal information shall be limited to that which is necessary for the purposes identified by St. Joseph's Villa. Information shall be collected by fair and lawful means.

- 4.4.1 St. Joseph's Villa shall not collect personal information indiscriminately. Both the amount and the type of information collected shall be limited to that which is necessary to fulfill the purposes identified.
- 4.4.2 The requirement that personal information be collected by fair and lawful means is intended to prevent St. Joseph's Villa from collecting information by misleading or deceiving individuals about the purpose for which information is being collected. This requirement implies that consent with respect to collection must not be obtained through deception.

4.5 Limiting Use, Disclosure, and Retention

Personal information shall 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 information shall be retained only as long as necessary for the fulfillment of those purposes.

- 4.5.1 If St. Joseph's Villa uses personal information for a new purpose, it will document this purpose.
- 4.5.2 St. Joseph's Villa will develop guidelines and implement procedures with respect to the retention of personal information. These guidelines will include minimum and maximum retention periods. Personal information that has been used to make a decision about an individual shall be retained long enough to allow the individual access to the information after the decision has been made. St. Joseph's Villa is subject to legislative requirements with respect to retention periods. Resident personal health information is maintained for ten years after death or discharge. After the maximum retention period has been reached, the information is destroyed by shredding.
- 4.5.3 Personal information that is no longer required to fulfill the identified purposes will be destroyed, erased, or made anonymous. St. Joseph's Villa will develop guidelines and implement procedures to govern the destruction of personal information (see Resident Records departmental standard "Non-Active Resident File Maintenance").

4.6 Accuracy

Personal information shall be as accurate, complete, and up-to-date as is necessary for the purposes for which it is to be used.

- 4.6.1 The extent to which personal information shall be accurate, complete, and up-to-date will depend upon the use of the information, taking into account the interests of the individual. Information shall be sufficiently accurate, complete, and up-to-date to minimize the possibility that inappropriate information may be used to make a decision about the individual.
- 4.6.2 St. Joseph's Villa will not routinely update personal information, unless such a process is necessary to fulfill the purposes for which the information was collected.
- 4.6.3 Personal information that is used on an ongoing basis, including information that is disclosed to third parties, will generally be accurate and up-to-date, unless limits to the requirement for accuracy are clearly set out.

4.7 Safeguards

Security safeguards appropriate to the sensitivity of the information will protect personal information.

- 4.7.1 The security safeguards will protect personal information against loss or theft, as well as unauthorized access, disclosure, copying, use, or modification. St. Joseph's Villa will protect personal information regardless of the format in which it is held.
- 4.7.2 The nature of the safeguards will vary depending on the sensitivity of the information that has been collected, the amount, distribution, and format of the information, and the method of storage. A higher level of protection should safeguard more sensitive information.
- 4.7.3 The methods of protection should include:
 - Physical measures, for example, locked filing cabinets and restricted access to offices;
 - Organizational measures, for example, security clearances and limiting access on a "need-to-know" basis; and
 - Technological measures, for example, the use of passwords and encryption.
- 4.7.4 St. Joseph's Villa will make their employees aware of the importance of maintaining the confidentiality of personal information. See RRC-POL/2 – "Release of Information and Confidentiality".
- 4.7.5 Care shall be used in the disposal or destruction of personal information, to prevent unauthorized parties from gaining access to the information

4.7.6 Personal information shall 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.

4.8 Openness

St. Joseph's Villa shall make readily available to individuals specific information about its policies and practices relating to the management of personal information.

4.8.1 St. Joseph's Villa will be open about their policies and practices with respect to the management of personal information. Individuals should be able to acquire information about an organization's policies and practices without unreasonable effort. This information shall be made available in a form that is generally understandable.

4.8.2 The information made available shall include:

- The name/title and address of the person (privacy officer) who is accountable for St. Joseph's Villa policies and practices and to whom complaints or inquiries can be forwarded;
- The means of gaining access to personal information held by St. Joseph's Villa
- A description of the type of personal information held by St. Joseph's Villa, including a general account of its use;
- A copy of any brochures or other information that explain St. Joseph's Villa policies, standards, or codes; and
- What personal information is made available to related organizations (e.g., other healthcare providers).

4.8.3 St. Joseph's Villa may make information on its policies and practices available in a variety of ways. St. Joseph's Villa will make brochures available, provide this information available on the Villa's website, and post this information in accessible locations throughout the Villa.

4.9 Individual Access

Upon request, an individual shall be informed of the existence, use and disclosure of his or her personal information and shall be given access to that information. An individual shall be able to challenge the accuracy and completeness of the information and have it amended as appropriate.

Note: *In certain situations, St. Joseph's Villa may not be able to provide access to all the personal information it holds about an individual. Exceptions to the access requirement should be limited and specific. The reasons for denying access should be provided to the individual upon request. Exceptions may include information that is prohibitively costly to provide, information that contains references to*

other individuals, information that cannot be disclosed for legal, security, or commercial proprietary reasons, and information that is subject to solicitor-client or litigation privilege.

- 4.9.1 Upon request, St. Joseph's Villa will inform an individual whether or not the organization holds personal information about the individual. St. Joseph's Villa will indicate the source of this information. St. Joseph's Villa will allow the individual access to this information. However, St. Joseph's Villa may choose to make sensitive medical information available through a medical practitioner. In addition, St. Joseph's Villa will provide an account of the use that has been made or is being made of this information and an account of the third parties to which it has been disclosed.
- 4.9.2 An individual may be required to provide sufficient information to permit St. Joseph's Villa to provide an account of the existence, use, and disclosure of personal information. The information provided shall only be used for this purpose.
- 4.9.3 In providing an account of third parties to which it has disclosed personal information about an individual, St. Joseph's Villa will attempt to be as specific as possible. When it is not possible to provide a list of the organizations to which it has actually disclosed information about an individual, St. Joseph's Villa will provide a list of organizations to which it may have disclosed information about the individual.
- 4.9.4 When an individual successfully demonstrates the inaccuracy or incompleteness of personal information, St. Joseph's Villa will amend the information as required. Depending upon the nature of the information challenged, amendment involves the correction, deletion, or addition of information. Where appropriate, the amended information shall be transmitted to third parties having access to the information in question.
- 4.9.5 When a challenge is not resolved to the satisfaction of the individual, the substance of the unresolved challenge should be recorded by St. Joseph's Villa. When appropriate, the existence of the unresolved challenge will be transmitted to third parties having access to the information in question.

4.10 Challenging Compliance

An individual shall be able to address a challenge concerning compliance with the above principles to the designated individual or individuals for St. Joseph's Villa's compliance.

Note: The individual will be able to address a challenge concerning compliance with the above principles to the Site President.

- 4.10.1** St. Joseph's Villa will put procedures in place to receive and respond to complaints or inquiries about their policies and practices relating to the handling of personal information. The complaint process should be easily accessible and simple to use.
- 4.10.2** St. Joseph's Villa will inform individuals who make inquiries or lodge complaints of the existence of relevant complaint mechanisms. These mechanisms are outlined in ADM-POL/5 – "Complaints".
- 4.10.3** St. Joseph's Villa will investigate all complaints. If a complaint is found to be justified through the internal or external complaint review process, the organization shall take appropriate measures, including, if necessary, amending its policies and practices.

5.0 DOCUMENTATION

6.0 REFERENCE SOURCES