



Privacy and Information Practices Policy



November 1, 2004

Privacy and Information Practices Policy

Principle 1	Accountability for Personal Health Information	1
Principle 2	Identifying Purposes for Collecting Personal Health Information	2
Principle 3	Consent for Collection, Use, and Disclosure	4
Principle 4	Limiting Collection of Personal Health Information	8
Principle 5	Limiting Use, Disclosure and Retention of Personal Health Information	9
Principle 6	Accuracy of Personal Health Information	11
Principle 7	Safeguards for Personal Health Information	11
Principle 8	Openness about Information Practices	12
Principle 9	Individual Access to Personal Health Information	13
Principle 10	Challenging Compliance with Information Practices	16

For more information on the *Privacy and Information Practices Policy*, please contact:

Joanne Armstrong, Manager, Administrative Services (Health Services Department), 905-830-4444 ext 4056

Dan Beale, Manager, Early Intervention Services (Community Services and Housing Department), 905-830-4444 ext 2037

PRIVACY AND INFORMATION PRACTICES POLICY

Principle 1 – Accountability for Personal Health Information

The Health Services Department and Early Intervention Services of the Family and Children's Services Division of the Community Services and Housing Department of The Regional Municipality of York ("Early Intervention Services") are responsible for personal health information¹ under their custody or control.

The Health Services Department of The Regional Municipality of York is comprised of the Newmarket Health Centre and Maple Health Centre (two homes within the meaning of the *Homes for the Aged and Rest Homes Act*), alternative community living and community and outreach programs pursuant to the *Long Term Care Act, 1994*, an ambulance service within the meaning of the *Ambulance Act* and the Medical Officer of Health and Board of Health within the meaning of the *Health Protection and Promotion Act*.

The Health Services Department and Early Intervention Services have each designated contact persons² who are accountable for ensuring their compliance with the principles set out in this Privacy and Information Practices Policy and with the *Personal Health Information Protection Act, 2004*.

The contact persons will also be responsible for responding to inquiries from the public about the information practices of the Health Services Department and Early Intervention Services, receiving complaints from the public about alleged contraventions of the *Personal Health Information Protection Act, 2004* and responding to requests for access or correction of personal health information.³

1.1

Accountability for compliance with the principles set out in this Privacy and Information Practices Policy and the *Personal Health Information Protection Act, 2004* rests with the contact persons, even though other individuals within the Health Services Department and Early Intervention Services will also be responsible for the day-to-day collection, processing, use and disclosure of personal health information. In addition, other individuals within the Health Services Department and Early Intervention Services may be delegated to act on behalf of the contact persons.

1.2

The contact person designated by the Health Services Department is the Manager of Administrative Services, 17250 Yonge Street, Newmarket, Ontario, L3Y 6Z1, (905) 830-4444 ext. 4056 and the contact person designated by Early Intervention Services is the Manager of Early Intervention Services, 17250 Yonge Street, Newmarket, Ontario, L3Y 6Z1, (905) 830-4444 ext. 2037.

¹ Personal health information is defined in section 4 of the *Personal Health Information Protection Act, 2004*, S.O. 2004, c. 3.

² The contact persons have been designated in accordance with section 15(2) of the *Personal Health Information Protection Act, 2004*, S.O. 2004, c. 3.

³ *Personal Health Information Protection Act, 2004*, S.O. 2004, c. 3, section 15(3).

1.3

The Health Services Department and Early Intervention Services are responsible for personal health information in their custody or control, including personal health information provided to third parties for processing or reimbursement of claims for payment and personal health information provided to service providers retained for program or service delivery.

The Health Services Department and Early Intervention Services will use contractual or other means to provide a comparable level of protection while personal health information is in the custody or control of third parties or service providers.

1.4

The Health Services Department and Early Intervention Services will train staff on their obligations pursuant to this Privacy and Information Practices Policy and the *Personal Health Information Protection Act, 2004*.

The Health Services Department and Early Intervention Services have also implemented policies and practices to give effect to the principles set out in this Privacy and Information Practices Policy, including:

- (a) procedures to protect personal health information against theft, loss and unauthorized collection, use, access, disclosure, disposal, duplication or modification;
- (b) procedures for receiving and responding to inquiries and complaints from the public; and
- (c) a written public statement that describes the information practices of the Health Services Department and Early Intervention Services, describes how to contact the contact persons, describes how an individual may obtain access or request correction of a record of personal health information about that individual and how to make a complaint to the contact persons and to the Ontario Information and Privacy Commissioner.⁴

Principle 2 - Identifying Purposes for Collecting Personal Health Information

The Health Services Department and Early Intervention Services will identify the purposes for which personal health information is collected at or before the time it is collected from the individual to whom the personal health information relates unless the *Personal Health Information Protection Act, 2004* permits another method of collection.

2.1

Through this Privacy and Information Practices Policy, the Health Services Department and Early Intervention Services will document the purposes for which personal health information is collected in order to comply with the Openness principle (Principle 8) and the Individual Access principle (Principle 9).

⁴ Supra, section 16.

The Health Services Department and Early Intervention Services may collect personal health information for:

- (a) the provision of health care or assisting in the provision of health care and obtaining payment for the provision of health care or related goods or services;
- (b) delivery of health programs or services;
- (c) purposes related to the statutory function of the Medical Officer of Health and Board of Health within the meaning of the *Health Protection and Promotion Act*;
- (d) public health administration and monitoring;
- (e) arranging referrals, providing supportive counseling and establishing interventions;
- (f) administration and management of the health care system;
- (g) research and statistics;
- (h) health protection and health promotion and awareness;
- (i) fundraising;
- (j) purposes permitted or required by law; and
- (k) purposes of complying with legal and regulatory requirements.

2.2

Through this Privacy and Information Practices Policy, the Health Services Department and Early Intervention Services will identify the general purposes for which personal health information is collected. This allows the Health Services Department and Early Intervention Services to determine the personal health information they need to collect to fulfill these purposes.

2.3

The purposes will be identified at or before the time of collection to the individual from whom the personal health information is collected unless the *Personal Health Information Protection Act, 2004* permits another method of collection.⁵ Depending upon the way in which the personal health information is collected, this can be done orally or in writing. An application or consent form, for example, may give notice of more specific purposes for which personal health information is collected.

2.4

When personal health information that has been collected is to be used or disclosed for a purpose not previously identified, the consent of the individual to whom the personal health information relates or his or her legally authorized representative is required before use or disclosure unless the new purpose is permitted or required by law. For an elaboration on consent, please refer to the Consent principle (Principle 3).

⁵ Supra, section 36(1) permits indirect collection in certain circumstances including with the consent of the individual, where the personal health information is reasonably necessary for providing health care and it is not reasonably possible to collect personal health information that is accurate or timely from the individual, where the law permits indirect collection or where the law permits a person to disclose personal health information to the Health Services Department or Early Intervention Services.

2.5

Persons collecting personal health information will explain to individuals the general purposes for which the personal health information is being collected.

2.6

This principle is linked closely to the Limiting Collection principle (Principle 4) and the Limiting Use, Disclosure and Retention principle (Principle 5).

Principle 3 – Consent for Collection, Use, and Disclosure

The consent of the individual to whom the personal health information relates or his or her legally authorized representative⁶ will be required prior to the collection, use or disclosure of personal health information, except where the collection, use or disclosure is permitted or required by the *Personal Health Information Protection Act, 2004*.⁷

That is, in certain circumstances, personal health information can be collected, used or disclosed without the consent of the individual to whom the personal health information relates or his or her legally authorized representative. These are circumstances where legal, medical or security reasons may make it impossible or impractical to seek consent.

For example, when personal health information is being collected for the detection and prevention of fraud or for law enforcement purposes, seeking the consent of the individual might defeat the purpose of collecting the personal health information.⁸ Similarly, seeking consent may be impossible or inappropriate when the individual to whom the personal health information relates is seriously ill or mentally incapacitated.⁹

3.1

Consent will be considered valid if it is knowledgeable, if it relates to the personal health information and if it is not obtained through deception or coercion.¹⁰

Consent to the collection, use or disclosure of personal health information about an individual will be considered knowledgeable if it is reasonable in the circumstances to believe that: the individual knows the purposes of the collection, use or disclosure, as the case may be, and that the individual may give or withhold consent.¹¹ The Health Services Department and Early Intervention Services will make reasonable efforts to ensure the individual to whom the personal health information relates or his or her legally authorized representative is advised in an easily understandable manner of the purposes for which the personal health information will be collected, used or disclosed, of the right to give or withhold consent and of the right to withdraw consent at any time by providing notice to the Health Services Department or Early Intervention Services.

⁶ Supra, section 23.

⁷ Supra, section 29.

⁸ Supra, section 37(1)(c).

⁹ Supra, section 23.

¹⁰ Supra, section 18(1).

¹¹ Supra, section 18(5).

3.2

The Health Services Department and Early Intervention Services will ensure consent is given by the individual to whom the personal health information relates or by the following legally authorized representatives:

- (a) If the individual to whom the personal health information relates is capable of consent and at least 16 years of age, that individual may provide written authorization for another person who is capable and at least 16 years of age to provide consent.¹²
- (b) If the individual to whom the personal health information relates is a child less than 16 years of age, a parent (other than a parent who has only a right of access) or the Children's Aid Society may consent unless the personal health information relates to,
 - i. treatment within the meaning of the *Health Care Consent Act, 1996*, about which the child has made a decision in accordance with that Act, or
 - ii. counselling in which the child has participated on his or her own under the *Child and Family Services Act*.¹³

Where there is a conflict between a capable child who is less than 16 years of age and the parent or Children's Aid Society, the decision of the child to give, withhold or withdraw consent prevails.¹⁴

- (c) If the individual is incapable of consent,¹⁵ the following individuals are legally authorized to provide consent, in the following order of priority:
 - i. a substitute decision maker if the purpose of collection, use or disclosure is necessary for, or ancillary to, a decision about treatment under Part II of the *Health Care Consent Act, 1996*, a decision about admission to a care facility under Part III of the *Health Care Consent Act, 1996* or a decision about a personal assistance service under Part IV of the *Health Care Consent Act, 1996*,
 - ii. a guardian of the person or guardian of property,
 - iii. an attorney for personal care or attorney for property,
 - iv. a representative appointed by the Consent and Capacity Board,
 - v. the individual's spouse or partner,
 - vi. a child or parent of the individual,
 - vii. a parent of the individual with only a right of access to the individual,
 - viii. a brother or sister of the individual, and
 - ix. any other relative of the individual.¹⁶

A person listed above may only consent if the person is capable of consent, is at least 16 years of age or the parent of the individual to whom the personal health information relates,

¹² Supra, section 23(1)(ii).

¹³ Supra, section 23(1)2.

¹⁴ Supra, section 23(3).

¹⁵ Pursuant to sections 21(4) and (5), an individual is presumed capable of consent unless there are reasonable grounds to believe that the individual is incapable.

¹⁶ Supra, section 23(1)3 and section 26.

is available and willing to assume responsibility for making a decision and is not prohibited by a court order or separation agreement from having access to the individual to whom the personal health information relates or from giving or refusing consent on behalf of the individual.¹⁷

Where two or more persons who are equally ranked and ranked ahead of all others disagree about whether to consent, the Public Guardian and Trustee may make the decision of whether or not to consent in their stead.¹⁸

- (d) If the individual is deceased, the deceased's estate trustee or person who has assumed responsibility for administration of the estate, if the estate does not have an estate trustee.¹⁹
- (e) A person authorized or required by law to act on behalf of the individual.²⁰

3.3

Typically, the Health Services Department and Early Intervention Services will seek consent for the use or disclosure of personal health information at the time of collection unless the use or disclosure is permitted or required by the *Personal Health Information Protection Act, 2004*²¹ or unless the *Personal Health Information Protection Act, 2004* permits the personal health information to be collected other than directly from the individual to whom the personal health information relates.²²

In certain circumstances if personal health information is used or disclosed for purposes not previously identified, notice can be given to the individual to whom the personal health information relates, at the first reasonable opportunity after the personal health information has been used or disclosed.²³

3.4

In obtaining consent, the reasonable expectations of the individual are relevant. For example, the Health Services Department and Early Intervention Services can assume that the individual's request for a program or service, health care, a referral or supportive counseling constitutes implied consent for specific purposes.

Consent however, will be required to be express if the consent relates to the disclosure of personal health information for purposes other than providing or assisting in providing health care or if disclosure is made to certain third parties.²⁴

3.5

The form of the consent sought by the Health Services Department and Early Intervention Services may vary, depending upon the circumstances and the type of personal health information.

¹⁷ Supra, section 26(2).

¹⁸ Supra, section 26(7).

¹⁹ Supra, section 23(1)4.

²⁰ Supra, section 23(1)5.

²¹ Supra, section 29.

²² Supra, section 36(1).

²³ A note also has to be made of the uses and disclosures and must be kept as part of the records of personal health information about the individual or in a form that is linked to those records pursuant to section 16(2).

²⁴ Supra, section 18(3).

Where it is reasonable in the circumstances, the Health Services Department and Early Intervention Services will post or make readily available to the individual, a notice describing the purposes of collection, use or disclosure of personal health information about the individual by the Health Services Department and Early Intervention Services.²⁵

3.6

Individuals can give consent required under the *Personal Health Information Protection Act, 2004* and other applicable legislation²⁶ in many ways. For example:

- (a) an application form may be used to seek consent, collect personal health information and inform the individual of the use that will be made of the personal health information. By completing and signing the form, the individual is giving consent to the collection and the specified uses of the personal health information;
- (b) a check off box may be used to allow individuals to request that their names and addresses not be given to other organizations or agents. For example, individuals may opt out of fundraising initiatives on behalf of the Newmarket Health Centre and Maple Health Centre by checking off a “Do Not Solicit” or “Do Not Contact” box. Individuals who do not check the box are assumed to consent to the use of personal health information for fundraising purposes;
- (c) consent may be given orally when personal health information is collected over the telephone for example in obtaining information from the Health Connection line of the Health Services Department or in providing information to Public Health Inspectors or Public Health Nurses for outbreak investigations and contact tracing; or
- (d) consent may be given at the time that individuals use a program or service.

3.7

Subject to legal restrictions, an individual to whom the personal health information relates or his or her legally authorized representative may withdraw consent to the collection, use or disclosure of personal health information at any time by providing notice to the Health Services Department or Early Intervention Services.²⁷

The withdrawal of consent however, will not have retroactive effect, meaning, the Health Services Department and Early Intervention Services will stop collecting, using or disclosing personal health information as soon as they receive notice of the withdrawal but will not retrieve personal health information they have already disclosed pursuant to the consent.²⁸

The Health Services Department and Early Intervention Services will inform the individual of the implications of such withdrawal.

²⁵ Supra, section 18(6).

²⁶ Including the *Ambulance Act*, R.S.O. 1990, c. A.19, *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7, *Homes for the Aged and Rest Homes Act*, R.S.O. 1990, c.H.13, *Long-Term Care Act, 1994*, S.O. 1994, c.26, *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.M.56 and *Regulated Health Professions Act, 1991*, S.O. 1991, c.19.

²⁷ Supra, section 19(1).

²⁸ Ibid.

3.8

An individual to whom the personal health information relates or his or her legally authorized representative may expressly instruct the Health Services Department and Early Intervention Services that certain personal health information may not be used or disclosed for certain purposes.²⁹

The Health Services Department and Early Intervention Services will not use or disclose personal health information upon receipt of this express instruction unless:

- (a) the Health Services Department and Early Intervention Services are required by law or by established standards of professional or institutional practice to record personal health information,³⁰ or
- (b) if the personal health information is reasonably necessary for the provision of health care, the Health Services Department and Early Intervention Services can advise the health care provider of the fact that they do not have consent to disclose all personal health information considered reasonably necessary for the provision of health care.³¹

Principle 4 - Limiting Collection of Personal Health Information

The Health Services Department and Early Intervention Services will limit the collection of personal health information to that which is reasonably necessary for the purposes identified, unless the law requires the collection, use or disclosure of additional personal health information.³²

In addition, the Health Services Department and Early Intervention Services will not collect personal health information if other information will serve the purpose of the collection unless the collection of personal health information is required by law.³³

4.1

The Health Services Department and Early Intervention Services will not collect personal health information indiscriminately. Both the amount and the type of personal health information collected will be limited to that which is necessary to fulfill the purposes identified. The Health Services Department and Early Intervention Services will specify the type of personal health information collected as part of its information practices, in accordance with the Openness principle (Principle 8).

4.2

This principle is linked closely to the Identifying Purposes principle (Principle 2) and the Consent principle (Principle 3).

²⁹ Supra, sections 37(1)(a), 38(1)(a) and 50(1)(e) .

³⁰ Supra, section 19(2).

³¹ Supra, sections 20(3), 38(2) and 50(2).

³² Supra, sections 30(2) and 30(3).

³³ Supra, section 30(1).

Principle 5 - Limiting Use, Disclosure and Retention of Personal Health Information

The Health Services Department and Early Intervention Services will not use or disclose personal health information for purposes other than those for which it was collected, except with the consent of the individual to whom the personal health information relates or his or her legally authorized representative or except as permitted or required by law.

In addition, the Health Services Department and Early Intervention Services will not use or disclose personal health information if other information will serve the purpose of the use or disclosure unless the use or disclosure of personal health information is required by law.³⁴

5.1

The Health Services Department and Early Intervention Services may use personal health information without consent for:

- (a) purposes for which it was collected or created and for all functions reasonably necessary for carrying out that purpose, unless the individual to whom the personal health information relates expressly instructs otherwise,
- (b) purposes for which the law permits or requires another person to disclose personal health information to the Health Services Department and Early Intervention Services,
- (c) planning, delivering, evaluating, allocating resources or monitoring programs or services or preventing fraud or unauthorized receipt of services or benefits,
- (d) purposes of obtaining payment or processing, monitoring, verifying or reimbursing claims for payment for the provision of health care or related goods and services;
- (e) risk management, error management or activities to improve or maintain the quality of care or quality of any programs or services,
- (f) research and statistical analysis,
- (g) educating agents to provide health care, and
- (h) other purposes permitted or required by law.³⁵

5.2

The Health Services Department and Early Intervention Services may disclose personal health information without consent in certain circumstances, including:

- (a) to certain health care providers if reasonably necessary for the provision of health care and it is not reasonably possible to obtain consent in a timely manner, unless the individual to whom the personal health information relates expressly instructs otherwise,
- (b) for determining or providing funding or payment for the provision of health care or determining or verifying the eligibility of the individual to receive health care or related goods, services or benefits,

³⁴ Supra, section 30(1).

³⁵ Supra, section 37(1).

- (c) for contacting a relative, friend or potential substitute decision maker if the individual is injured, incapacitated or ill and unable to give consent personally,
- (d) that the individual is a resident of the Newmarket Health Centre or Maple Health Centre, his or her location in the Newmarket Health Centre or Maple Health Centre and his or her general health status described as critical, poor, fair, stable or satisfactory provided the resident did not object to such disclosure when provided an opportunity to do so,
- (e) for conducting audits or reviewing accreditations for services provided,
- (f) for research purposes,
- (g) to the Chief Medical Officer of Health or Medical Officer of Health for purposes of the *Health Protection and Promotion Act*,
- (h) if there are reasonable grounds to believe disclosure is necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm to a person or persons,
- (i) for purposes of complying with a summons, order, procedural rule or similar requirement that compels production of personal health information,
- (j) to a person carrying out an inspection or investigation authorized by warrant or by law,
- (k) to a Children's Aid Society to enable it to carry out its statutory function; and
- (l) if permitted or required by the *Personal Health Information Protection Act, 2004*.³⁶

5.3

The Health Services Department and Early Intervention Services will ensure records of personal health information are retained and disposed of in a secure manner and will retain personal health information in accordance with the Record Retention By-Law of the Regional Municipality of York, By-Law No. A-216-96-139.

Personal health information that is subject to a request for access will be retained for as long as is necessary to allow the individual to exhaust any recourse under the *Personal Health Information Protection Act, 2004* that he or she may have with respect to the request.³⁷

The Health Services Department and Early Intervention Services are subject to legislative and regulatory requirements with respect to retention of personal health information.

5.4

Personal health information beyond the record retentions period will be destroyed, erased or made anonymous. The Regional Municipality of York has developed guidelines and implemented procedures to govern the disposal of personal health information.

5.5

This principle is closely linked to the Consent principle (Principle 3), the Identifying Purposes principle (Principle 2) and the Individual Access principle (Principle 9).

³⁶ Supra, sections 38 – 50.

³⁷ Supra, section 13(2).

Principle 6 - Accuracy of Personal Health Information

The Health Services Department and Early Intervention Services will take reasonable steps to ensure that the personal health information that is *used* is as accurate, complete and up-to-date as is necessary for the purposes for which the personal health information is *used*.

The Health Services Department and Early Intervention Services will meet the same standard for *disclosing* personal health information for purposes that are known at the time of disclosure or will clearly set out for the recipient of the disclosure the limitations on the accuracy, completeness or up-to date character of the personal health information.³⁸

6.1

The extent to which personal health information will be accurate, complete and up-to-date will depend on the use of the personal health information, taking into account the interests of the individual. Personal health information will be sufficiently accurate, complete and up-to-date to minimize the possibility that inappropriate personal health information may be used to make a decision about the individual.

6.2

The Health Services Department and Early Intervention Services will not routinely update personal health information, unless it is necessary to fulfill the purposes for which the personal health information was collected.

6.3

Personal health information that is used on an ongoing basis, including personal health information that is disclosed to agents, will generally be accurate and up-to-date, unless limits to the requirement for accuracy are clearly set out.

Principle 7 - Safeguards for Personal Health Information

The Health Services Department and Early Intervention Services will protect personal health information by taking steps that are reasonable in the circumstances to ensure that personal health information in their custody or control is protected against theft, loss and unauthorized use or disclosure and to ensure that personal health information is protected against unauthorized copying, modification or disposal.³⁹

7.1

The Health Services Department and Early Intervention Services will protect personal health information regardless of the format in which it is held.

7.2

Subject to an exception for researchers and any regulations enacted pursuant to the *Personal Health Information Protection Act, 2004*, the Health Services Department and Early Intervention Services will notify an individual at the first reasonable opportunity if personal health

³⁸ Supra, section 11.

³⁹ Supra, section 12(1).

information about the individual in their custody or control is stolen, lost or accessed by unauthorized persons.⁴⁰

7.3

The methods of protection for personal health information will include:

- (a) physical measures, for example, placing documents containing personal health information in locked filing cabinets and restricting access to cabinets and offices where personal health information is retained;
- (b) organizational measures, for example, security clearances and limiting access to personal health information to those persons requiring access to personal health information for the uses permitted or required by law; and
- (c) technological measures, for example, the use of passwords, access permissions, audit logs and encryption technology.

7.4

The Health Services Department and Early Intervention Services have and will continue to make their agents aware of the importance of maintaining the confidentiality of personal health information.

7.5

Care will be used in the disposal or destruction of personal health information to prevent unauthorized access to personal health information (see Principle 5.3).

Principle 8 – Openness about Information Practices

Through this Privacy and Information Practices Policy, the Health Services Department and Early Intervention Services will make readily available to individuals a written public statement about its policies and practices relating to the management of personal health information.⁴¹

8.1

The Health Services Department and Early Intervention Services will be open about their policies and practices with respect to the management of personal health information. Individuals will be able to acquire information about the information policies and practices of the Health Services Department and the Early Intervention Services without unreasonable effort and in a form that is generally understandable.

8.2

The written public statement made available will include:

- (a) a general description of the information practices of the Health Services Department and Early Intervention Services;

⁴⁰ Supra, sections 12(2) and 12(3).

⁴¹ Supra, sections 10 and 16.

- (b) the title and address of the contact persons who are accountable for the information practices and policies of the Health Services Department and Early Intervention Services and to whom complaints or inquiries can be forwarded; and
- (c) the means of obtaining access to or correction of personal health information held by the Health Services Department and Early Intervention Services.⁴²

8.3

The Health Services Department and Early Intervention Services may make information on its policies and practices available in a variety of ways. For example, it may choose to make brochures available in its place of business, provide online access or establish a toll-free telephone number.

Principle 9 - Individual Access to Personal Health Information

Upon request, the Health Services Department and Early Intervention Services will inform an individual of the existence, use and disclosure of a record of his or her personal health information in their custody and control and give the individual access to that information.⁴³ Granting informal access is also permissible.⁴⁴

An individual to whom personal health information relates will be able to challenge the accuracy and completeness of the personal health information and have it amended as appropriate.⁴⁵

9.1

Upon request, the Health Services Department and Early Intervention Services will inform an individual whether or not they hold personal health information about the individual and the source of this information.

9.2

An individual is required to provide sufficient detail to permit the Health Services Department and Early Intervention Services to identify and locate a record of personal health information with reasonable efforts.⁴⁶

If the request does not contain sufficient detail to enable the Health Services Department and Early Intervention Services to identify and locate the record with reasonable effort, they will offer assistance to the individual requesting access in reformulating the request to meet the former requirement.⁴⁷

The Health Services Department and Early Intervention Services will also take reasonable steps to be satisfied as to the individual's identity by typically requiring that the individual presents two pieces of valid identification, one of which must be photo identification.⁴⁸

⁴² Supra, section 16.

⁴³ Supra, section 52(1).

⁴⁴ Supra, section 52(6).

⁴⁵ Supra, section 55.

⁴⁶ Supra, section 53(2).

⁴⁷ Supra, section 53(3).

⁴⁸ Supra, section 54(9).

9.3

The Health Services Department and Early Intervention Services will respond to an individual's request for access as soon as possible in the circumstances but no later than 30 days after receiving a request for access.⁴⁹

The Health Services Department and Early Intervention Services may extend the time limit for a further 30 days upon written notice if responding within 30 days would unreasonably interfere with operations or where the time required to undertake consultations makes it unreasonable to reply within 30 days.⁵⁰

In certain situations, the Health Services Department and Early Intervention Services will not be able to provide access to all the personal health information it holds about an individual. Access to personal health information will be denied or access to certain personal health information will be severed where:

- (a) the record containing personal health information contains quality of care information,
- (b) the record of personal health information contains raw data from standardized psychological tests or assessments,
- (c) the record or personal health information is subject to legal privilege (i.e.: solicitor client or litigation privilege),
- (d) the law or a court order prohibits disclosure in the circumstances,
- (e) the personal health information contained in the record was collected or created primarily in anticipation of or use in a proceeding and the proceeding, together with all appeals or processes resulting from it, have not concluded,
- (f) the personal health information was collected or created in the course of an inspection, investigation or similar procedure authorized by law and the inspection, investigation or similar procedure, together with all proceedings, appeals or processes resulting from them, have not been concluded,
- (g) granting access could reasonably be expected to result in a risk of serious harm to the treatment or recovery of the individual or a risk of serious bodily harm to the individual or another person or lead to the identification of a person required by law to provide information in the record or the identification of a person who provided information explicitly or implicitly in confidence, and
- (i) sections 38(a) or 38(c) of the *Municipal Freedom of Information and Protection of Privacy Act* would apply to the disclosure.⁵¹

⁴⁹ Supra, section 54(2). An individual may also request an expedited response pursuant to section 54(5) by providing evidence that the individual requires access on an urgent basis by a specified date.

⁵⁰ Supra, section 54(3).

⁵¹ Supra, sections 51(1) and 52(1).

The Health Services Department and Early Intervention Services may also refuse to grant access if there are reasonable grounds to believe the request is frivolous or vexatious or is made in bad faith.⁵²

Provided no exceptions exist, the requested personal health information will be provided for examination, and at the request of the individual, a copy provided to the individual in a form that is generally understandable. If reasonably practical, the Health Services Department and Early Intervention Services will provide an explanation of any terms, codes or abbreviations used in the to record.⁵³

The Health Services Department and Early Intervention Services may charge an individual a fee based on reasonable cost recovery for purposes of granting access if the individual is first provided an estimate of the fee.⁵⁴

If the request for access is refused, in whole or in part, or there is a deemed refusal, the individual will receive a reason for the refusal and be informed of the right to appeal to the Ontario Information and Privacy Commissioner.⁵⁵

9.4

If an individual granted access believes that the record of his or her personal health information is inaccurate or incomplete for the purposes for which Health Services Department and Early Intervention Services have collected or used the personal health information, the individual may request orally or in writing that the record be corrected.⁵⁶ The individual must provide the Health Services Department and Early Intervention Services with information necessary to enable the correction of the record.⁵⁷

The Health Services Department and Early Intervention Services will respond to a request for correction within 30 days after receiving a request.⁵⁸ The time limit may be extended upon written notice for a further 30 days if responding to a request within 30 days would unreasonably interfere with operations or where the time required to undertake consultations make it unreasonable to reply within 30 days.⁵⁹

9.5

Upon granting a request for a correction, the Health Services Department and Early Intervention Services shall,

- (a) make the requested correction by,
 - i. recording the correct information and striking out the incorrect information in a manner that does not obliterate the record or, if that is not possible, labeling the

⁵² Supra, section 54(6).

⁵³ Supra, section 54(1)(a).

⁵⁴ Supra, sections 54(10) and 54(11).

⁵⁵ Supra, sections 54(1)(c) and (d), 54(7) and 54(8).

⁵⁶ Supra, section 55(1).

⁵⁷ Supra, section 55(8).

⁵⁸ Supra, section 55(3).

⁵⁹ Ibid.

- information as incorrect, severing the incorrect information, storing it separately and maintaining a link that enables a person to trace the incorrect information, or
- ii. if it is not possible to record the correct information, ensuring there is a practical system in place to inform a person accessing the record that the information in the record is incorrect and to direct the person to the correct information;
- (b) give notice to the individual of what it has done to make the requested correction; and
 - (c) at the request of the individual give written notice of the requested correction, to the extent reasonably possible, to persons to whom the personal health information has been disclosed, except if the correction cannot reasonably be expected to have an effect on the ongoing provision of health care or other benefits to the individual.⁶⁰

9.6

The Health Services Department and Early Intervention Services are not required to correct personal health information if,

- (a) it consists of a record not originally created by the Health Services Department or Early Intervention Services and they do not have sufficient knowledge, expertise and authority to correct the record; or
- (b) it consists of a professional opinion or observation that was made in good faith about the individual.⁶¹

The Health Services Department and Early Intervention Services may also refuse to grant a request for correction if they believe on reasonable grounds that the request is frivolous or vexatious or is made in bad faith.⁶²

The Health Services Department and Early Intervention Services must give reasons for refusing to correct a record and inform the individual that the individual is entitled to prepare a concise statement of disagreement that sets out the refused correction, to require the Health Services Department and Early Intervention Services to attach the statement of disagreement to the record and disclose this statement of disagreement whenever it discloses personal health information to which the statement relates, to require the Health Services Department and Early Intervention Services to make all reasonable efforts to disclose the statement of disagreement to any person who would have been notified had the requested correction been made and to make a complaint about the refusal to the Ontario Information and Privacy Commissioner.⁶³

Principle 10 - Challenging Compliance with Information Practices

An individual will be able to address a challenge concerning compliance with these information practices to the Contact Persons and to the Ontario Information and Privacy Commissioner.

⁶⁰ Supra, section 55(10).

⁶¹ Supra, section 55(9).

⁶² Supra, section 55(6).

⁶³ Supra, section 55(11).

10.1

The contact persons accountable for ensuring compliance are discussed in Principle 1.1.

10.2

The Health Services Department and Early Intervention Services will put procedures in place to receive and respond to complaints or inquiries about information practices relating to personal health information.

10.3

The Health Services Department and Early Intervention Services will inform individuals who make inquiries or lodge complaints of the existence of relevant complaint procedures. A range of these procedures may exist.

For information on how to file a privacy complaint, or to make comments or inquiries about the Health Services Department's policies and information practices relating to the handling of personal health information, contact the Manager of Administrative Services, 17250 Yonge Street, Newmarket, Ontario, L3Y 6Z1, (905) 830-4444 ext. 4056. For information on how to file a privacy complaint, or to make comments or inquiries about the Early Intervention Services' policies and information practices relating to the handling of personal health information, contact the Manager of Early Intervention Services, 17250 Yonge Street, Newmarket, Ontario, L3Y 6Z1, (905) 830-4444 ext. 2037.

10.4

The Health Services Department and Early Intervention Services will investigate all complaints. If a complaint is found to be justified, the Health Services Department and Early Intervention Services will take appropriate measures, including, if necessary, amending its policies and practices.