

Ethical Practices Risk Management	Policy Name Confidentiality and Privacy Policy
Responsible for Implementation President and CEO, Director of Programs and Services, Director–HR, Program Managers and Program Supervisors	Creation Date: June 2011
Approved By The President and CEO Date: Review Date:	Review Dates: May 2017

CONFIDENTIALITY AND PRIVACY POLICY

Objective:

Aptus Treatment Centre (“Aptus”) recognizes the importance of the confidentiality of Personal Information and the privacy of individuals with respect to that information.

Aptus will take all reasonable steps to comply with applicable privacy legislation, including but not limited to the *Personal Health Information Protection Act* (the “PHIPA”), and all privacy and confidentiality obligations under any funding agreement made under the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008*.

Aptus is committed to properly managing the Personal Information it collects, uses and discloses in the course of providing services.

Purpose:

The purpose of this Policy is to establish procedures to ensure compliance with the above objectives.

Definitions:

Under this Policy the following terms shall have the following definitions:

“Collect”: to gather, acquire, receive, or obtain information.

“Disclose”: to make the information available or to release it.

“Express Consent”: explicit and knowledgeable permission from either a person who is capable of consenting or, if the person is not capable, an authorized substitute decision maker. Express consent means the consent has not been obtained through deception or coercion, and received after the person was informed of the purpose for the collection, use, or disclosure of Personal Information, the circumstances under which Personal Information may be collected, used, or disclosed, and that consent may be provided or withheld.

“Health Care:” any observation, examination, assessment, care, service or procedure that is provided for a health-related purpose in diagnosing, treating, or maintaining an individual’s physical or mental condition.

“Health Information Custodian”: a person or institution as it is defined under the *Personal Health Information Protection Act*, such as a hospital, health care practitioner, pharmacy, home for special care, or a Centre, program or service whose primary purpose is the provision of health care.

“Personal Information”: information about the People We Support or another third party, in oral or recorded form, where the person is identifiable or it is reasonably foreseeable that the person could be identifiable, and the information relates to:

- a. Physical or mental health, including health history of the person’s family;
- b. Treatment or diagnosis;
- c. Payments or eligibility for our programs, support, and services;
- d. A person’s health number;
- e. A plan of service; Plan of Care or Person Centered Plan
- f. The identification of an individual’s substitute decision-maker; or
- g. Information that is contained in a record with Personal Information.

Information in a record that relates primarily to an employee or agent of Aptus or was maintained primarily for a purpose other than health care is not Personal Information.

“Use”: to handle or deal with information.

Application:

This Policy applies to all Aptus staff members, volunteers and member of the Board of Directors.

Aptus will seek to ensure that any third party service providers will be required to comply and this Policy will be incorporated as a required term of such contracts.

RESPONSIBILITIES AND IMPLEMENTATION

The Chief Privacy Officer:

The President and CEO and/or designate will serve as the Chief Privacy Officer and will be responsible for implementation of this Policy.

It is the **Chief Privacy Officer's** responsibility to:

- a) Ensure a written statement is made available to the public describing Aptus' general information for the Chief Privacy Officer, and the manner in which a complaint or correction/access request can be made ("General Privacy Statement");
- b) Inform, educate, and seek to ensure training is provided to workers, volunteers and members of the Board of Directors about this Policy;
- c) Seek to ensure the practices and procedures set out in the Policy are followed;
- d) Seek to ensure third party service providers comply with this Policy;
- e) Investigate and correct errors in an individual's Personal Information records;
- f) Answer requests from the public for a copy of Aptus 's privacy policy;
- g) Respond to inquiries from the public concerning Aptus 's information practices;
- h) Respond to internal inquiries with respect to the Policy and Aptus 's information handling practices;
- i) Respond to complaints from an individual or the public with respect to Aptus 's information practices;
- j) Respond to requests for access or correction to Personal Information as described in this Policy;
- k) Evaluating the appropriate retention period for Personal Information
- l) In circumstances where Aptus may be required to provide Personal Information in response to a legal inquiry or order, ensure that the order is valid and disclose only the Personal Information that is legally required;
- m) Seek to ensure a person's Express Consent is recorded and his or her file properly noted should Aptus use or disclose Personal Information outside of what is

reasonably necessary for the purpose for which Aptus obtained Express Consent;
and,

- n) Review and follow the procedures set out in this policy.

Employees, Volunteers and Members of the Board of the Directors:

It is the responsibility of all employees, volunteers, and members of the Board of Directors to:

- a) Review and follow the procedures set out in this Policy;
- b) Attend and participate in all training with respect to this Policy;
- c) Review this policy with the People We Support in a language and manner, and with a level of support, that is appropriate to the capacity of the People We Support.

THE COLLECTION, USE AND DISCLOSURE OF PERSONAL INFORMATION

Collection of Personal Information:

1. Before Aptus collects Personal Information, it shall obtain the individual's Express Consent to do so, unless the situation is one where Express Consent is not necessary.
2. Express Consent for the collection of Personal Information is not required if:
 - a) The record of the Personal Information was created more than 120 years ago or when the Personal Information relates to an individual who died more than 50 years ago (whichever is sooner);
 - b) The Personal Information is required in order to comply with procedural rules or legal mechanisms being enforced by a party or witness in a proceeding;
 - c) The Personal Information is required in the context of a regulatory body conducting activities authorized by law;
 - d) The Personal Information is information that Aptus is required by law to collect;
 - e) The Personal Information is necessary for the purposes of providing health care and it is not reasonably possible to obtain consent in a timely manner;
 - f) If the Commissioner authorizes that the collection of Personal Information be made in a manner other than directly from the individual; or
 - g) If the collection of Personal Information is permitted or required by law or by a treaty, agreement or arrangement made under an Act or an Act of Canada.

3. Where possible, where Personal Information is collected on forms prepared by Aptus, the purpose or reason why the information needs to be collected will be clearly identified on the form itself.
4. Aptus does not intend to collect Personal Information beyond:
 - a) Aptus 's General Privacy Statement; and
 - b) What is reasonably necessary for the purpose Aptus has been identified.
5. When Express Consent is refused, the provision of Aptus's services and programs may only be denied if the Personal Information being requested does not extend beyond the purpose for which Aptus needs the information.
6. Express Consent to the collection of Personal Information may be withdrawn at any time, subject to legal and contractual requirements, and reasonable notice. Where consent is withdrawn, Aptus shall explain to the individual the implications of withdrawing consent.
7. A record of the Express Consent obtained shall be made and recorded.
8. Aptus may also collect Personal Information indirectly with Express Consent of the individual.
9. Aptus may also imply consent in circumstances where Personal Information is being collected for the purpose of providing programs, care, services, and support to the individual.

Use and Disclosure of Personal Information:

Once Aptus has collected Personal Information, it does not intend to use or disclose the Personal Information beyond:

- a) Aptus 's General Privacy Statement; and
- b) What is reasonably necessary for the purpose Aptus identified at the time of collection.

Should Aptus use or disclose Personal Information for a purpose other than the one which has been identified, Aptus shall obtain new Express Consent unless the situation is one where Express Consent is not necessary.

Express Consent for the use or disclosure of Personal Information is not required if:

- The record of the Personal Information was created more than 120 years ago or when the Personal Information relates to an individual who died more than 50 years ago (whichever is sooner);

- The Personal Information is required in order to comply with procedural rules or legal mechanisms being enforced by a party or witness in a proceeding;
- The Personal Information is required in the context of a regulatory body conducting activities authorized by law;
- The Personal Information is information that Aptus is required by law to use or disclose;
- The Personal Information is required for the purpose of seeking Express Consent of a relative, friend, or potential substitute decision-maker, if the individual is injured, incapacitated or ill and unable to give consent personally, as long as the information being used is limited to name and contact number;
- The disclosure of the Personal Information is for the purpose of a proceeding or contemplated proceeding in which Aptus or an agent of Aptus is or is expected to be a party or a witness, if the information relates to or is a matter in issue;
- The Personal Information is required in order to determine if an individual is eligible to receive health care or related benefits and coverage under a government funded, legislated program;
- The disclosure of the Personal Information is to a person conducting an audit or reviewing an application for or review of an accreditation that relates to services provided by Aptus ;
- The disclosure of the Personal Information is to another Health Information Custodian that at present or in the past has provided health care or assisted in providing health care to the individual, and the disclosure is to maintain the quality of care given to the individual;
- If Aptus believes on reasonable grounds that the disclosure of Personal Information is necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm to a person or group of persons;
- The disclosure of the Personal Information is to comply with valid subpoena, order, summons, or similar requirement;
- The use or disclosure of the Personal Information is otherwise permitted or required by the Minister or under statute.

If the scope of Aptus's use and disclosure extends beyond Aptus's General Privacy Statement, Aptus shall:

- a) Inform the individual of the uses and disclosures at the first reasonable opportunity unless there is no right of access;
- b) Make a note of the uses and disclosures and inform the Chief Privacy Officer that will form part of the record.

Subject to any exception found in this policy or in law, Aptus shall obtain Express Consent where:

- a) Aptus is disclosing Personal Information to a third party and:
 - i) The disclosure is not for the purpose of providing health care to one of our clients; or
 - ii) The third party is not a Health Information Custodian
- b) Aptus is using or disclosing Personal Information for marketing purposes
- c) Aptus is using or disclosing Personal Information for fundraising purposes and the information does not involve only the individual's name and contact information.

Purpose for Collection, Use, and Disclosure of Personal Information:

Aptus will identify the purpose for which it requires Personal Information to obtain Express Consent and in its General Privacy Statement. Currently, the purposes for which Aptus collects, uses, and discloses Personal Information include, but are not limited to, the following:

The People We Support:

- To identify and deliver the service or program which would be the best fit and most beneficial for the needs of the People We Support
- For planning, developing, evaluating, monitoring, and delivering a treatment plan, programs, services, and activities
- To improve or maintain the quality of care or treatment
- To improve or maintain the quality of programs or services
- To assess progress and provide updates
- For risk and error management
- To educate third parties with whom Aptus contracts with to provide programs and services
- To comply with the requirements of Quality Assurance Measures concerning service records under Regulation 299/10 of the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008*

- For any other purpose the law permits or requires information to be used, collected, or disclosed by Aptus.

Relatives/Contact for the People We Support:

- To contact a relative, friend or potential substitute decision-maker of the People We Support in the event of an emergency
- To communicate for the purposes of providing updates, progress reports, and other information related to the program or services which have been provided or that we anticipate will be provided to the People We Support
- To obtain payment or processing, monitoring, and verifying or reimbursing claims for payment for the provision of Aptus 's programs and services
- To improve or maintain the quality of care or treatment
- To contact to seek consent where required
- For any other purpose the law permits or requires information to be used, collected, or disclosed by Aptus.

Marketing and Fundraising:

- To educate and disseminate information with respect to Aptus 's mandate, programs, and services
- To communicate concerning fundraising events and opportunities to contribute
- To allocate resources and to receive and process funds
- For any other purpose the law permits or requires information to be used, collected, or disclosed by Aptus.

Safeguarding Personal Information:

Aptus is committed to protecting the Personal Information it has collected.

Subject to other restrictions against disclosure set out in the Policy, the individual to whom Personal Information relates shall be notified at the first reasonable opportunity if the information is stolen, lost, or accessed by unauthorized persons.

Aptus implements safeguards designed to ensure reasonable steps are taken to protect Personal Information against loss, theft, and unauthorized use, access, disclosure, modification, or duplication.

Such safeguards include but are not limited to the following:

Storage

- Desks and storage containing Personal Information will be locked and in a secure location whenever the area is left unsupervised and overnight;
- Personal Information must never be viewable by visitors or the People We Support to whom the information does not relate;
- Office doors should be locked before leaving work for the day;
- Access to Personal Information will be restricted to those individuals who require access, such as, but not limited to, those persons directly involved in our client's care;
- Financial information must be locked in a secure location at all times;
- A password protected screensaver should be triggered on computers after 15 minutes of inactivity;
- Personal Information collected, stored, and disclosed electronically will be protected through the implementation of firewalls, encryption, passwords and other security measures; and
- Personal Information related to physical or mental health stored on any mobile devices (e.g., laptops, memory sticks, PDAs) shall be securely encrypted to limit access to authorized individuals, and no one else.

Confidentiality

- Personal Information will be transferred to third parties and between our facilities in a secure manner;
- When Personal Information is transferred to third parties, Aptus will seek to ensure that, when the purpose for the disclosure is achieved, the Personal Information is securely returned to Aptus unless Aptus advises otherwise in writing.
- Personal Information shall not be left in unattended vehicles, made visible on public transportation or insecurely handled in public establishments or areas;
- Personal Information shall only be sent via facsimile where it has been confirmed that the information will be received promptly and the receiving party's fax machine is in a secure location;
- If Personal Information is discussed at a Board of Directors or staff meetings and minutes are taken, such minutes will be subject to appropriate safeguards as noted above;
- Aptus's fax machine will be placed in a secure location; and
- Discretion and sensitivity will be used during verbal discussions to seek to ensure that such information is not overheard by unauthorized persons.

Disposal

- Personal Information in Aptus 's custody or control will be disposed of in a secure manner that ensures confidentiality and privacy is maintained; and
- Documents containing confidential and Personal Information will not be placed in the recycling bin. Personal Information that is to be shredded shall be placed in one of the shredding boxes at Aptus and shredded as often as necessary.

Retention:

Aptus is committed to ensuring Personal Information it has used, collected, and disclosed, is retained for a reasonable length of time, as determined by the Chief Privacy Officer.

Aptus will retain Personal Information for a reasonable time period that takes into account:

- The purpose for which the information was collected;
- Any record retention requirements imposed on Aptus ;
- The period in which an individual may exercise his or her right to access Personal Information under the *PHIPA*; and
- The period in which an individual may exhaust any legal recourse with respect to the Personal Information.

Unless otherwise required by law, a Service Record shall be kept for a minimum period of seven (7) years. This information includes:

- Application for Services and Supports;
- Supports Intensity Scale needs assessment; and
- Individual Support Plan, Plan of Care, Person Centered Plan, and / or Behavioural Support Plan

Credit card and financial information collected for fundraising and donations shall not be retained after the funds have been processed and dispersed.

The decision Aptus is required to retain Personal Information shall be made by the Chief Privacy Officer on a case by case basis.

Access:

Aptus will give individual's access to their Personal Information, subject to legal limitations. Access will be provided on Aptus's premises with the Chief Privacy Officer or his or her designate present.

Individuals can challenge the accuracy and completeness of their Personal Information and where justified, have it amended, or have amendments noted, as appropriate.

Aptus may not be able to provide access to Personal Information in certain circumstances, such as:

- Information that is the subject of any legal privileges;
- Raw data from standardized psychological tests or assessments;
- Compliance is required with a court order that prohibits Aptus from making information public or from publishing information;
- To comply with regulatory activities of a governing body;
- In connection with a subrogated claim or a potential subrogated claim;
- Information collected or created in the course of an inspection, investigation, or similar procedure, and the proceedings, appeals, and processes have not yet been concluded;
- If the information cannot be disclosed for other legal or security reasons;
- Should an Act of Canada or a court order prohibit disclosure to the individual of the record or the information in the record in the circumstances;
- When granting access would likely 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;
- When granting access would likely lead to the identification of a person who was required by law to provide information in the record to Aptus, or who did provide information to Aptus in confidence and Aptus considers it appropriate to keep his or her identity confidential; and
- The record contains quality of care information.

In all cases, internal and external requests for access to Personal Information should be in writing and directed to the Chief Privacy Officer.

An individual has a right of access to that part of a record that can reasonably be severed from the part of the record to which the individual does not have a right of access.

Inquiries with respect to Aptus's information handling practices shall be referred to the Chief Privacy Officer or designated member of the Privacy Committee.

The Chief Privacy Officer:

- Shall make every reasonable effort to respond to requests for access within 30 days of receipt of the request;
- Extend the response deadline for up to an additional thirty (30 days) if meeting the time limit would unreasonably interfere with Aptus's operations due to the nature of the information being requested, or if it is not reasonably practical to reply within 30 days given the consultations necessary to respond. Aptus shall not extend;

- Respond within the time period specified by the individual if Aptus is reasonably able to do so and the individual provides evidence as to the urgency of the request;
- Within the appropriate timelines, make the record available for examination or provide a written response setting out why the record does not exist, cannot be found, or the access request is being refused;

Accuracy:

Aptus recognizes that the need to be accurate is particularly important where Personal Information is used to make a decision about an individual or when information will be disclosed to a third party. Aptus shall take reasonable steps to ensure that the information is as accurate, complete and up-to-date as possible.

When disclosing Personal Information, Aptus shall

- Seek to ensure the information is as accurate, complete, and updated as possible; or
- Clearly set out the limitations, if any, on the accuracy, completeness, or up-to-date character of the information.

If an individual requests that Aptus correct an error or omission in his or her Personal Information, and Aptus is satisfied that a correction should be made, the Chief Privacy Officer will:

- Make every reasonable effort to respond to requests within 30 days of receipt of the request;
- Extend the response deadline for up to an additional 30 days if meeting the time limit would unreasonably interfere with Aptus 's operations due to the nature of the information being requested, or if it is not reasonably practical to reply within 30 days given the consultations necessary to respond;
- Respond within the time period specified by the individual if Aptus is reasonably able to do so and the individual provides evidence as to the urgency of the request;

Within the appropriate timelines complete the following and notify the individual the following has been completed: record the correct information, strike out the incorrect information, sever the incorrect information and label it as incorrect, at the request of the individual provide the corrected Personal Information to each organization which the Personal Information has been disclosed to by Aptus

QUESTIONS ABOUT THIS POLICY

If you have any questions about this Policy, please speak to the Chief Privacy Officer or designate.