

Guideline on **CONSENT**

For Treatment and the
Collection, Use and
Disclosure of
Confidential Patient
Information



Saskatchewan
College of Dietitians

Clients have a fundamental right to make informed decisions about their health care and how their information is used. Dietitians must understand their legal and professional requirements for consent to treatment as well as the collection, use and disclosure of confidential patient information. Please note that not all aspects of these guidelines will be applicable to Dietitians in all types of practice, but it is still important that all registrants have a basic understanding of the principles of privacy.

Core Principles of Canadian privacy law

The core principles of privacy law in Canada as articulated by Saskatchewan Office of the Information and Privacy Commissioner can be summarized as follows and explained more fully in Appendix 1:

Accountability	An organization is responsible for personal information under its control and shall designate a person who is accountable for compliance with the following principles.
Identifying Purposes	The purpose for which personal information is collected shall be identified by the organization at or before the time the information is collected
Consent	The knowledge and consent of the individual are required for the collection, use or disclosure of personal information except when inappropriate
Limiting Collection	The collection of personal information shall be limited to what is necessary for the purposes of identified by the organization. Information shall be collected by fair and lawful means.
Limiting Use and Disclosure	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 this purpose.
Accuracy	Personal information shall be as accurate, complete and up to date as is necessary for the purposes for which it is used.

Safeguards	Personal information shall be protected with security safeguards appropriate to the sensitivity of the information.
Openness	An organization shall make readily available to individuals specific information about its policies and practices related to its handling of personal information.
Individual Access	Upon request, an individual shall be informed of the existence, use and disclosure of personal information about the individual and shall be given access to that information. An individual shall be able to challenge the accuracy and completion of the information and have it amended as appropriate.
Challenging Compliance	An individual shall be able to challenge compliance with the above principles with the person who is accountable within the organization

Consent to treatment

The phrase “consent to treatment” refers to the consent or agreement of a client to undergo an assessment process or treatment intervention, after gaining an understanding of the relevant facts and risks involved. It is the responsibility of health care professionals to provide all necessary information to allow clients to make an informed decision about their care.

Dietitians practicing in Saskatchewan must adhere to the obligations they have under applicable legislation, and to the SCD Code of Ethics. There are two different consent models used in Saskatchewan – express consent and implied consent.

The obligations of dietitians in Saskatchewan related to consent to treatment are reflected in the SCD Code of Ethics which states the following:

1.2 Dietitians shall obtain consent for any service and shall:

- 1.2.1 Provide the client with a complete and objective explanation of the nature and scope of the problem, which in the dietitian’s opinion, emerges from all the facts that have been brought to her or his attention.
- 1.2.2 Inform the client of the scope of the recommended services and of any reasonable alternative services.
- 1.2.3 Provide accurate information about the expected benefits and the risks of the recommended services and of the alternatives.

1.3 The dietitian should take all reasonable steps to ensure that consent is not given under conditions of coercion or undue pressure.

1.4 When a personal lacks decisional capacity, dietitians must obtain consent for nutritional care from an authorized substitute decision maker.

1.9 The dietitian should take all reasonable steps to ensure that the individual understands the information provided, and the individual's questions have been answered. This is especially important when ethno-cultural or literacy issues apply

The delivery of dietetic services is often done in collaboration with other health care providers as part of an interprofessional team. In many instances, one health care practitioner may obtain consent for services on behalf of all health care professionals involved in the treatment plan. In instances where consent to treatment has been obtained by another member of the interprofessional team, the Dietitian should verify with the client that they are also consenting to receiving any nutrition treatment.

Elements of Consent to Treatment

1. Consent to treatment must be given voluntarily.

Consent to treatment must be given freely and not be obtained through undue influence or coercion or by fraudulent misrepresentation of information.

2. The client must have the capacity to give consent to treatment.

In order for consent to treatment to be valid, the person giving it must have the legal and mental capacity to give consent. As defined by the provincial Health Care Directives and Substitute Health Care Decision Maker Act, "capacity" means the ability: (a) to understand information relevant to a health care decision respecting a proposed treatment; (b) to appreciate the reasonably foreseeable consequences of making or not making a health care decision respecting a proposed treatment; and (c) to communicate a health care decision with respect to a proposed treatment.

If a client has the capacity to give consent to treatment, no one else's consent is required. There are however, two groups in which concerns related to capacity often occurs, these are minors and adults deemed to be without capacity.

Minors: In Saskatchewan, children under the age of 18 years of age are capable of giving or refusing consent to treatment providing they are able to appreciate the nature and purpose of the treatment and the consequences of their decision. If a child has the capacity to give consent to treatment, the consent of the child is required and considered sufficient in law. This is commonly referred to as the mature minor doctrine. If a professional decides that a minor is sufficiently mature, steps should be taken to document the basis for this finding. In such circumstances, consent to treatment from parents is not required and parents may not override the decision of a child. In the event that a child does not have the capacity to make a decision regarding the treatment, the child's parents or legal guardian have the legal authority to do so. However, in the event that the decision of the parents or legal guardian is not considered to be in the best interest of the child, the decision can be overridden.

Adults without capacity: Adults are presumed to have capacity unless there is evidence to the contrary. In the event that a client lacks the capacity (whether temporary or permanent) to make a decision regarding their care, a substitute decision maker with the lawful authority should be identified and given proper informed consent to treatment information prior to treatment being provided. Consult the provincial Health Care Directives Act and the Substitute Health Care Decision Makers Act for more information:

<http://www.publications.gov.sk.ca/freelaw/documents/English/Statutes/Statutes/H0-002.pdf>

Many people equate Power of Attorney with Substitute Health Care Decision making abilities. They are not the same. Power of Attorney is related to financial matters; having Power of Attorney does not allow that person to make health care decisions for someone without capacity.

3. The client must be informed.

Informed consent means providing the client with information regarding the nature of the treatment or service to be provided along with its expected benefits, possible risks and side effects, alternate courses of action and the likely consequence of no action. Consent must be related directly to the treatment/service (which includes fee, services and/or billing practices), be based on full disclosure of the likely risks and benefits and be given voluntarily. Clients should also be given the opportunity to have their specific questions regarding treatment addressed.

Types of Consent to Treatment

Dietitians can rely on implied or expressed (written or oral) consent. Based on professional judgment, the type of consent obtained will usually depend on the context in which the treatment is provided and the degree of risk to the client for following or refusing treatment.

Implied Consent

In many situations, consent to treatment is simply implied through the words and/or conduct of a client. For example, dietitians frequently engage in face to face consultation with clients. During such consultations, it is normal practice that the client is asked questions relevant to their nutritional status or is provided with education/counseling related to their nutrition care plan. By participating in such a dialogue and agreeing for the consultation to continue, the client has implied consent for treatment.

Expressed Consent

In circumstances where more specific dietetic interventions are required, a more formal approach to obtaining consent should be taken. Such interventions could include weighing a client, touching a client (ie. subjective global assessment, swallowing assessment) or initiating nutrition support (i.e. enteral / parenteral nutrition).

Expressed consent to treatment involves obtaining the consent or agreement of a client to undergo an assessment process or treatment intervention after the client has gained an understanding of the relevant facts and risks involved. Expressed consent to treatment may be given in a written or oral form. While legislation in Saskatchewan does not require that consent to treatment be in a written form, written consent is advantageous as it creates evidence that the process took place. In situations where a written consent to treatment is not obtained, dietitians should document in the client chart that informed consent was given verbally. For example, in the chart you might indicate that verbal consent was received for subjective global assessment.

A written consent to treatment should include the following, keeping in mind that when care is provided collaboratively, it may not be the dietitian who is obtaining the written consent:

- The printed name and signature of the client
- The date
- A clear description of the proposed treatment that is understandable by the client
- The name of the person who will be providing the treatment or procedure
- Evidence that the client understands the following:
 - o Nature and reasons for the treatment
 - o Who will be providing the treatment
 - o Alternatives to having the treatment or procedure
 - o Risks and side effects of treatment
 - o Consequences of not having the treatment
- The printed name and signature of a witness

It should be noted that there is a third category of consent that applies only in emergencies. It is called **deemed consent** and it means that a trustee can forgo express or implied consent in circumstances when an individual is unable to give consent, is unconscious or in emergent circumstances when obtaining consent would prolong suffering or place the client at risk of harm.

Right to refuse or withdrawal consent to treatment

A client with the capacity to consent to treatment also has the right to refuse or withdraw consent to treatment, regardless of the consequences of their decision. In the event that a client refuses or withdraws consent to treatment the dietitian should review the risks and benefits of treatment once again to ensure that the refusal or withdrawal of consent to treatment is informed. It is important that the decision to refuse or withdrawal consent to treatment is documented. Many health care facilities have policies and forms that must be signed by clients when they indicate that they have made a choice to refuse or withdraw consent to treatment contrary to professional advice and that they are aware of the risks of doing so.

This right is also affirmed in the Saskatchewan College of Dietitians Code of Ethics:

1.7 The dietitian must respect the right of individuals to refuse treatment or withdraw consent for care at any time, or to request a second opinion. The dietitian should be sensitive to nonverbal indications of a desire to discontinue and seek confirmation from the individual or substitute decision maker.

Consent for the collection, use and disclosure of confidential information

In addition to consent for treatment, when required, Dietitians must also obtain consent from clients for the collection, use and disclosure of confidential information. This can be done in conjunction with consent for services, but should specifically address obligations under provincial and federal privacy legislation. See Appendix 2 and 3 for samples, keeping in mind that these are only provided as examples and require personalization depending on the type of services you provide and the format of your client records.

The Health Information Protection Act (HIPA) and the Local Authority Freedom of Information and Protection of Privacy Act (LAFOIPPA) are Saskatchewan statutes governing personal health information and personal information respectively. HIPA applies to personal health information collected by trustees, including health care organizations and a licensed health care professional. LAFOIPPA applies to personal information collected by a local authority, such as a school board or a municipality. The Personal Information Protection and Electronic Documents Act (PIPEDA) is a Canadian statute that governs personal information collected in the course of business transactions. The interpretation of the legislation in this guide should not be relied upon as a substitute for the legislation or legal advice. Registrants obliged to follow HIPA, LAFOIPPA or PIPEDA are expected to familiarize themselves with the appropriate legislation. If you are a dietitian in private practice you are the trustee of the record and are encouraged to review the resources found on the Office of the Saskatchewan Information and Privacy Commissioner (OIPC) at <https://oipc.sk.ca/> to understand that role and your responsibilities.

HIPA

The provincial Health Information Protection Act (accessed [here](#)) identifies the requirements for collection, storage, use and disclosure of personal health information in Saskatchewan. While all Dietitians are required to understand their obligations for confidentiality, self-employed registrants who are considered “trustees” of personal health information must develop policies and procedures to comply with the Act and its regulations.

For a complete definition of “trustee”, refer to HIPA s(2). SCD registrants employed by a trustee are obligated to follow the rules and regulations of their employer

HIPA defines personal health information as follows:

2(m) "personal health information" means, with respect to an individual, whether living or deceased:

- (v) information with respect to the physical or mental health of the individual;
 - (ii) information with respect to any health service provided to the individual;
 - (iii) information with respect to the donation by the individual of any body part or any bodily substance of the individual or information derived from the testing or examination of a body part or bodily substance of the individual;
- (iv) information that is collected:
 - (a) in the course of providing health services to the individual; or
 - (b) incidentally to the provision of health services to the individual; or
- (v) registration information

One important principle of *HIPA* is the "need to know". Personal health information can only be collected, used and disclosed by trustees on a need-to-know basis. That is, only those health care providers who are directly involved in the provision of care and services to a client have a legitimate right to access that PHI of that individual. As the use of electronic health records (EHRs) increases, this becomes vitally important to remember. Audit logs of EHRs track who users see and the information they collect; suspicious activity is questioned. Suspected breaches of PHI are investigated. HIPA does not allow the use of PHI for teaching purposes; looking up the health record of a client because they are 'an interesting case' or 'you would like to expand your knowledge about this kind of clinical situation' is a violation of *HIPA*.

Another important principle within *HIPA* is the 'right to access'; clients have the right to know who has accessed their PHI. Clients have the right to ask for a list of every person who has accessed their health record, paper or electronic. The trustee is required to provide this list to the client and the trustee is required to follow-up on any concerns raised by the client on who has accessed their PHI.

LAFOIPPA

The provincial Local Authority Freedom of Information and Protection of Privacy Act (accessed [here](#)) applies broadly to personal information, including information related to health care, that is under the control of a "local authority." Section 23(m) of LAFOIPPA defines personal information (versus personal health information as governed by HIPA) and applies to SCD registrants employed by local authorities as defined in the legislation. Some organizations have multiple pieces of legislation that they must comply with. For example, the Saskatchewan Health Authority is a trustee of PHI; at the same time, the personal information of their employees falls under LAFOIPPA. This same situation applies to any health care organization.

PIPEDA

The Personal Information Protection and Electronic Documents Act (available in full at <http://laws-lois.justice.gc.ca/eng/acts/P-8.6/>) is federal legislation intended to support and promote electronic commerce by protecting personal information that is collected, used or disclosed in certain circumstances, by providing for the use of electronic means to communicate or record information or transactions. As PIPEDA applies to commercial activities, it applies only to those Registered Dietitians owning or operating private clinics and in only applies to their business transactions. If the business activities constitute the provision of health care services to clients, the PHI collected from the clients still falls under HIPA.

The bottom line on consent:

It is important that the Dietitian follows the policies and procedures of their employer with respect to collection, use, disclosure and retention of PHI or PI.

If a Dietitian is self-employed, the Dietitian is required to understand the obligations under legislation, including having policies and procedures that provide appropriate administrative technical safeguards to protect the privacy and security of any PHI or PI within the custody and control of the Dietitian.

Acknowledgements

The Saskatchewan College of Dietitians (SCD) would like to recognize the Saskatchewan Office of the Information and Privacy Commissioner and source documents used in the development of these guidelines from the College of Dietitians of Ontario (2017), College of Dietitians of Alberta, the Saskatchewan Society for Occupational Therapists, the Saskatchewan Association of Speech Language Pathologists and Audiologists and the Consulting Network of the Dietitians of Canada.

References

Dietitians of Canada Consulting Dietitians Network. (2016). Dietitians in Private Practice Manual.

College of Dietitians of Alberta. (2014) Professional Practice Handbook.

College of Dietitians of Ontario. (2017) Professional Practice Standard: Consent for Treatment and the Collection, Use and Disclosure of Personal Health Information.

Saskatchewan Association of Speech Language Pathologists and Audiologist (2017). Documentation and Record Management Guidelines.

Saskatchewan Society of Occupational Therapists (2015). Document Standards and Guidelines

Appendix 1-Elaboaration on Privacy Principles

Collection of Information

Collection of information (ie. medical history, nutrition assessment, food journal) is an important component of providing dietetic services to clients. Legislation authorizes the collection of information for certain purposes only. In all situations, the client should be informed as to what information will be collected, from whom and the purposes for which the information will be used. The collection of information shall be limited to that which is necessary for the purposes identified.

Protection of Information

Registered Dietitians are responsible to ensure that reasonable steps are taken to maintain physical, technical and administrative safeguards to protect information.

The intent of these safeguards is as follows:

- to protect the confidentiality of information
- to protect the privacy of individuals
- to protect against anticipated threats/ hazards to the security or integrity of health information
- to protect against the loss, unauthorized use, disclosure or modification of health information
- to ensure compliance with the applicable Act(s)

Examples of practices that would facilitate maintaining safeguards are as follows:

Physical Safeguards

- Lock filing cabinets and secure areas where information is stored; restrict access to authorized individuals
- Ensure that computer terminals, white boards, etc. with client information are positioned where they cannot be seen or accessed by unauthorized users
- Avoid taking items such as files, disks, memory sticks, computers, lap tops, or anything that else that contains information away from the work place
- Ensure that when disposing of client information, appropriate methods (i.e. secure shredding) are used
- Ensure that computers have all client information erased prior to being sold

Technical Safeguards

- Use passwords to restrict computer access; change passwords frequently
- Use a document tracking system that indicates when a document is removed, who has it and when it was returned
- Ensure computers have virus scanners and firewalls in place
- Use screen savers / security screens to prevent those who are unauthorized from viewing computer terminals
- Transmit and store information in an encrypted format; this includes information stored on mobile media storage devices.

Administrative Safeguards

- Ensure staff receive ongoing training on policies related to protection of information, the importance of the policies and consequences of a contravention to the policies
- Implement security checks
- Have staff take an oath of confidentiality, through a signed confidentiality agreement
- Control the types of information that can be transmitted by fax or e-mail; if you need to email client information to a 3rd party, ensure you have the consent of the client before you do.
- Minimize the risk of errors by using pre-programmed addresses/phone numbers on faxes and e-mails that are regularly sent to certain places; on a regular basis, confirm that addresses/phone numbers have not changed

Use of Information

Information shall not be used for purposes other than for which it was collected. The most common purposes are for providing a health service or determining/verifying a person's eligibility to receive a health service. In all circumstances, when a dietitian is authorized to share client records, he or she must share only the minimum amount of information required (ie. need to know basis).

Client Access to Their Information

A client has the legal right under HIPA and LAFOIPPA to request access to any record that contains information about that person that is in the custody or control of the trustee or local authority.

Custodians in health care settings, private sector organizations and public bodies must make every reasonable effort to respond to a client's request for access within legislated time frames and assist the applicant with their request. Under HIPA, a custodian is required to inform an applicant of whether they will receive access to all or part of the information as well as where, when and how the access will be given, if applicable. If access to all or part of the record is refused, the applicant must be informed of the reason for the refusal, the provisions of the legislation that support refusal to access, a contact person who can answer questions about the refusal and the applicants right to ask the Information and Privacy Commissioner to review the decision to refuse access. The legislation permits trustees and local authorities to charge certain fees for providing access to information records. The website for the Saskatchewan Office of the Information and Privacy Commissioner (found at <https://oipc.sk.ca/resources/access/>) has extensive resources to assist trustees or local authorities in understanding their obligations in regards to access requests.

Disclosure of Information

Disclosure of personal information without consent is prohibited. However, there are a number of exceptions listed in section 29 of LAFOIPPA. Section 27 of HIPA identifies that health professionals are to disclose only as much information as is essential to carry out the purpose of the disclosure and ensure that written consent, when appropriate has been received. The obligations of trustees and local authorities supercedes any obligations stated in the Code of Ethics.

The disclosure and duty to report obligations of Registered Dietitians in Saskatchewan are echoed in the Code of Ethics which states the following:

1.17 The dietitian may divulge confidential information only when the individual consents to disclosure, when disclosure is required or permitted by law, or when disclosure is necessary to protect an incompetent client from harm. The extent of the disclosure should be limited in order to provide as much protection as possible to the individual's privacy.

Duty to Report

While professionals have an obligation to treat information confidentially, there are certain circumstances where there is a duty to report information to the proper authority. Disclosing information to fulfill a duty to report is usually permitted under one of the exceptions to consent, most commonly where another law requires or authorizes the disclosure. Examples of legislation requiring mandatory reports include reports of child abuse or neglect (Child and Family Services Act found at <http://www.qp.gov.sk.ca/documents/english/statutes/statutes/C7-2.PDF>), sexual abuse (Emergency Protection for Victims of Child Sexual Abuse and Exploitation Act found at www.qp.gov.sk.ca/documents/english/Statutes/Statutes/e8-2.pdf) and complaints investigation /discipline proceedings by professional regulatory body.

Record Retention

The retention and destruction section of HIPA has not yet been proclaimed. Presently, the Office of the Information and Privacy Commissioner of Saskatchewan suggests that records are retained for a minimum period of ten years from the date of the last entry. For pediatric clients, records should be retained for a period of fifteen years or until two years past the date that the client becomes 18 years old. SCD recommends that registrants observe the record retention policies established by their employers, where applicable.

Storage of Records

Dietitians must take reasonable measures to guard against unauthorized access to information. Hard-copy client records should be stored in a secure location such as a locked filing cabinet or file room. Dietitians employed by an organization should follow the file-management policies of their employer.

Administrative (the following is an incomplete list):

- Ensuring password-enabled screen locks are engaged
- Step-by-step procedures for what to do if a device is lost or stolen
- Enable the ability to remotely wipe a device
- When using the device, de-identify PI/PHI whenever possible

Technical (the following is an incomplete list):

- Use strong passwords
- Use multi-layer authentication
- Use encryption
- Only connect to secure wireless networks

Physical (the following is an incomplete list):

- Do not leave your mobile device unattended
- Securely store mobile devices when not in use
- Report lost or stolen devices to your Privacy Officer and if appropriate, the police
- Safely dispose of mobile devices when no longer needed

Transfer of Records to a Designated Trustee due to cessation of private practice

Self-employed Dietitians must have a plan in place for the transfer of health records in the event of a temporary or permanent cessation of practice. The cessation plan should include the name, address and telephone number of a designated trustee who can take over the custody of the client care records. Since PHI can only be provided to a trustee under HIPA, your designated trustee must be a regulated health professional who is willing to assume the legal responsibility for maintaining records according to Saskatchewan law.

The contact information for the designated trustee must be kept up to date by the self-employed Dietitians and known to his/her next of kin and/or executor as appropriate. The cessation plan should include a notification plan that informs ongoing clients of any transfer of their records and also notification to SCD. See appendix 3 and 4 for sample form and client notification letter.

Disposal of records

After the appropriate time has elapsed, records should be destroyed. The security and confidentiality of records must be maintained during the disposal process. Generally accepted methods would include shredding, incineration or de-identifying personal and health information on the documents being discarded.

A record should be maintained that includes:

- Name of the clients
- File number (if applicable)
- Last date of service
- Date that the record or file was destroyed.

The destruction of electronic records must render them unreadable and eliminate the possible reconstruction of the records in whole or in part.

Appendix 2- Sample Consent and Confidentiality Agreement adapted from example provided by Brooke Bulloch, RD of Food to Fit

I, _____ hereby grant permission for the dietitian to collect personal information including my name, date of birth, phone number, email address, medical history, medications, supplements, food allergies/intolerances, food intake records, food or nutrition-related concerns, lab values accessed through E-Health Saskatchewan, and any other information pertinent to the nutrition service provided. This information will be used for nutrition assessment, sustainable planning, and follow up counseling and coaching.

I also grant permission for the dietitian to correspond with my physician(s) or pertinent health care provider(s) to obtain or share information relevant to my nutrition treatment and counseling, as needed, at any time during the course of my care and consultation with [business name]

I am aware that my personal health information will be retained for ten years following the last date of service (or ten years following my eighteenth birthday, whichever is longer.) and then destroyed in compliance with provincial privacy legislation- HIPA . I also understand that I have the right to view the health information in my file and to review the privacy policies of [business name].

Payment

The fee schedule for dietitians services has been explained to me and I understand that all consultation services are payable by cheque, electronic transfer, cash or credit card (VISA, AMEX or Mastercard) to [business name] due at time of the initial consultation. GST and PST are not added to dietitian services. Receipts are issued to indicate each nutrition consultation session. Receipts intended for insurance reimbursement purposes cannot be issued prior to consultation services being received. Packages expire (time frame) from the date of purchase. Packages are non-refundable.

Appointment Cancellation

I understand that I need to provide (insert time frame) hours notice for cancellation or to reschedule an appointment. Failing to attend a scheduled appointment or canceling within (insert time frame) hours will be deemed as services rendered.

Signature of Client

[Your Name], Registered Dietitian

DATED this _____ day of _____ 20 ____.

Appendix 3- Sample Privacy Policy for self-employed dietitians adapted from example provided in Dietitians in Private Practice Manual (2016) from Consulting Dietitians Network of Dietitians of Canada

PRIVACY POLICY FOR INDIVIDUAL COUNSELING

Privacy of personal information is an important principle to [insert business name]. We are committed to collecting, using and disclosing personal information responsibly and only to the extent necessary for the services we provide. We also try to be open and transparent as to how we handle personal information. This document describes our privacy policies.

WHAT IS PERSONAL HEALTH INFORMATION?

Personal health information is information about an identifiable individual. Personal health information includes information that relates to their personal characteristics (e.g., gender, age, income, home address or phone number, ethnic background, family status), the health (e.g., health history, health conditions, health services received by them) or their activities and views (e.g., religion, politics, opinions expressed by an individual, an opinion or evaluation of an individual).

WHO WE ARE

Our organization, [insert business name], includes [insert your name], Registered Dietitian and associate dietitians. We interact with a number of consultants and agencies that may, in the course of their duties, have limited access to personal information we hold. These include computer consultants, office security and maintenance, bookkeepers and accountants, a file storage company, temporary workers to cover holidays, credit card companies, cleaners, landlords and lawyers. We restrict their access to any personal information we hold as much as is reasonably possible. We also have their assurance that they follow appropriate privacy principles.

WE COLLECT PERSONAL HEALTH INFORMATION: PRIMARY PURPOSES

About Clients

Like all Registered Dietitians, we collect, use and disclose personal health information in order to serve our clients. For our clients or when we assess a client for someone else (E.g., an auto insurance company), the primary purpose for collecting personal health information about you is to provide you with dietetic services. We collect information about your health and diet history, your physical condition and function, and your social situation in order to help us assess what your needs are, to advise you of your options and then to provide the health care you choose to have.

About Contract Staff, Volunteers and Students

For people who are contracted to do work for us (e.g., temporary workers), our primary purpose for collecting personal information from them is to ensure we can contact them in the future (e.g., for new assignments) and for necessary work-related communication (e.g., sending out paycheques, year-end tax receipts). Examples of the type of personal information we collect for those purposes include home addresses and telephone numbers. It is rare for us to collect such information without prior consent, but it might happen in the case of a health emergency (e.g., a SARS outbreak) or to investigate a possible breach of law (e.g., if a theft were to occur in the clinic). If contract staff, volunteers or students wish a letter of reference or an evaluation, we will collect information about their work-related performance and provide a report as authorized by them.

WE COLLECT PERSONAL HEALTH INFORMATION: RELATED AND SECONDARY PURPOSES

Like most organizations, we also collect, use and disclose information for purposes related to our primary and secondary purposes. The most common examples of our related and secondary purposes are as follows:

- To invoice clients for services that were not paid for at the time, to process credit card payments or to collect unpaid accounts.
- Our clinic reviews client and other files for the purpose of ensuring that we provide high quality services, including assessing the performance of our staff.
- Registered Dietitians are regulated by the Saskatchewan College of Dietitians who may inspect our records and interview our staff as part of their regulatory activities in the public interest. In addition, as professionals, we will report serious misconduct, incompetence or incapacity of other practitioners, whether they belong to other organizations or our own. Also, our organization believes that it should report information suggesting serious illegal behaviour to the authorities. External regulators have their own strict privacy obligations. Sometimes these reports include personal health information about our clients, or other individuals, to support a concern (e.g., improper services). Also, like all organizations, various government agencies (e.g., Canada Customs and Revenue Agency, Information and Privacy Commissioner, Human Rights Commission, etc.) have the authority to review our files and interview our staff as a part of their mandates. In these circumstances, we may consult with professionals (e.g., lawyers, accountants) who will investigate the matter and report back to us.

- The cost of some services provided by the organization to clients is paid for by third parties (e.g., auto insurance companies, private insurance). These third-party payers often have your consent or legislative authority to direct us to collect and disclose to them certain information in order to demonstrate client entitlement to this funding.
- Clients or other individuals we deal with may have questions about our services after they have been received. We also provide ongoing services for many of our clients over a period of months or years for which our previous records are helpful. We retain our client information for a minimum of ten years after the last contact to enable us to respond to these questions and provide these services (our regulatory body also requires us to retain our client records).
- If [insert business name] or its assets were to be sold, the purchase would want to conduct a “due diligence” review of the records to ensure that it is a viable business that has been honestly portrayed to the purchaser. This due diligence may involve some review of our accounting and service files. The purchase would not be able to remove or record personal health information and personal information. Before being provided access to the files, the purchaser must provide a written promise to keep all personal health information and personal information confidential. Only reputable purchasers who have already agreed to buy the organization’s business or its assets would be provided access to personal health information and personal information, and only for the purpose of completing their due diligence search prior to closing the purchase.

You can choose not to be part of some of these related or secondary purposes (e.g., by paying for your services in advance). We do not, however, have much choice about some of these related or secondary purposes (e.g. external regulation).

PROTECTING PERSONAL HEALTH INFORMATION

We understand the importance of protecting personal health information. For that reason, we have taken the following steps:

- Paper information is either under supervision or secured in a locked or restricted area.
- Electronic hardware is either under supervision or secured in a locked or restricted area at all times. In addition, passwords are used on computers.
- Paper information is transmitted through sealed, addressed envelopes.
- Electronic information is transmitted either through a direct line or as a password protected document via email.
- Staff are trained to collect, use and disclose personal health information only as necessary to fulfill their duties and in accordance with our privacy policy.
- External consultants and agencies with access to personal health information must enter into privacy agreements with us.

RETENTION AND DESTRUCTION OF PERSONAL HEALTH INFORMATION

We need to retain personal health information for some time to ensure that we can answer any questions you might have about the services provided and for our own accountability to external regulatory bodies. However, we do not want to keep personal health information too long in order to protect your privacy. We keep our client files for about ten years. We destroy paper files containing personal health information by shredding. We destroy electronic information by deleting it and, when the hardware is discarded, we ensure that the hard drive is physically destroyed.

YOU CAN LOOK AT YOUR INFORMATION

With only a few exceptions, you have the right to see what personal health information we hold about you. Often all you have to do is ask. We can help you identify what records we might have about you. We will also try to help you understand any information you do not understand (e.g., short forms, technical language, etc.). We will need to confirm your identity, if we do not know you, before providing you with this access. We reserve the right to charge a nominal fee for such requests.

If there is a problem, we may ask you to put your request in writing. If we cannot give you access, we will tell you within 30 days if at all possible and tell you the reason, as best we can, as to why we cannot give you access.

If you believe there is a mistake in the information, you have the right to ask for it to be corrected. This applies to factual information and not to any professional opinions we may have formed. We may ask you to provide documentation that our files are wrong. Where we agree that we made a mistake, we will make the correction and notify anyone to whom we sent this information. If we do not agree that we have made a mistake, we will still agree to include in our file a brief statement from you on the point and we will forward that statement to anyone else who received the earlier information.

DO YOU HAVE A QUESTION?

[Insert your name] can be reached at:

1234 Test Street, P.O. Box 001, Province XY, XXX XXX
PHONE (123) 456-7890

She will attempt to answer any questions or concerns you might have.

If you wish to make a formal complaint about of privacy practices, you may make it in writing to [insert your name]. She will acknowledge receipt of your complaint; ensure that it is investigated promptly and that you are provided with a formal decision and reasons in writing.

If you have a concern about the professionalism or competence of our services or the mental or physical capacity of any of our professional staff we would ask you to discuss those concerns with us. However, if we cannot satisfy your concerns, you are entitled to complain to our regulatory body:

Saskatchewan College of Dietitians
17-2010 7th Ave, Regina, SK
PHONE 306-359-3040
Email: registrar@saskdietitians.org

This policy is made under the Health Information Protection Act (Saskatchewan).

For general inquiries or disputes, the Office of the Information and Privacy Commissioner of Saskatchewan who oversees the administration of the privacy legislation with respect to the provision of health care services can be reached at:

503-1801 Hamilton Street, Regina, SK
PHONE: 306-787-8350, 1-877-748-2298
Email: webmaster@opic.sk.ca
<https://oipc.sk.ca/>

For general inquiries or disputes with respect to PIPEDA and the privacy of private sector information, the national Office of the Information and Privacy Commissioner of Canada can be reached at:

112 Kent Street, Ottawa ON, K1A 1H3
PHONE 1-800-282-1376
www.privcom.gc.ca

Appendix 3: Sample Designated Trustee Agreement and Consent Form

I, _____, of [city or town], Saskatchewan, regulated health professional¹, agree to be the designated trustee of the confidential personal health information records of __, Registered Dietitian, in case of a planned or unplanned closure of his/her practice.

I have read the SCD guidelines regarding the protection of personal health information. I understand and agree that:

1. I have a legal obligation to protect the security and confidentiality of the records in accordance with *The Health Information Protection Act* (HIPA).
2. Clients have a right to access their records and I will provide them with copies of their records in compliance with HIPA.
3. I have a duty to retain the records entrusted to my care in the event of a civil claim or complaint against the designating Registered Dietitian.
4. I will notify the Saskatchewan College of Dietitians in writing in the event that I take custody of the records and will confirm the location of the records and how clients will be able to access them.
5. I will retain the records entrusted to me for a minimum of 10 years from date of last visit for adults and 10 years from age of majority for children, as is currently recommended by the Office of the Information and Privacy Commissioner of Saskatchewan, or such other period of time as may be recommended by the Privacy Commissioner in the future.
6. I will destroy the records entrusted to me after the expiration of the retention period described in paragraph 5 in a secure manner.

The designating Registered Dietitian confirms that:

The location of the physical and or electronic records is:	
The replacement trustee will be able to access the records in the following manner:	

The designating Registered Dietitian confirms that he/she will notify the designated trustee if the records are moved or if the manner of accessing them changes.

Signed this _____ day of _____, 20__.

	Registered Dietitian	Designated Trustee
Name		
Signature		
Address		
Phone Number		

Appendix 4- Sample Notification Letter to Clients for a Transfer of Custody of Personal Information

DATE

Dear CLIENT's NAME,

This letter is to notify you that RD has <retired/been in an unforeseen accident/ has passed away suddenly>, and to inform you that I am the Designated Trustee of their client health records. I will keep your records at LOCATION. If you would like to, you can obtain a copy of your records by contacting me and on payment of a fee of AMOUNT. You may request a copy of any existing records to be sent to you or to any other registered dietitian in Saskatchewan.

I will keep your records private and confidential according to the health record retention period suggested by the Office of the Information and Privacy Commissioner in Saskatchewan, currently as follows:

1. For Adults: 10 years after the date of client's last visit.
2. For Children: 10 years after the date the client turns 18 years of age.

The Saskatchewan College of Dietitians can assist you in accessing your records. The SCD may be reached by telephone at 306-359-3040 or by email at [email address]. The SCD will make every effort to ensure that your records will remain available to you until you find another registered dietitian.

If you would like to seek further private practice dietetic services, you can do so by going to the website of the Saskatchewan College of Dietitians at www.saskdietitians.org.

If you have any further questions or concerns, please don't hesitate to contact me.

Kind regards,

Name of designated trustee

Contact information



Saskatchewan
College of Dietitians