

<p>SECTION: Services and Supports</p> <p>DEPARTMENT Services and Supports</p>	<p>EFFECTIVE DATE: July 2016</p> <p>DATE LAST REVISED: September 2022</p>	<p>Approved by:</p> <p><i>Suzanne D. D'Almeida - Cole</i></p> <hr/> <p>Chief Executive Officer</p>
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POLICY STATEMENT:

Kerry's Place ensures measures are in place to respect and protect the privacy of the individuals we serve. We are committed to providing these individuals options regarding our management of their personal health information (PHI), to the extent possible while permitting us to provide our services in compliance with the provincial privacy legislation, regulations and the standard of care. We appreciate the importance of giving individuals choice over the services they receive from us, and are committed to providing our services in a manner that respects their dignity to the extent possible without jeopardizing their safety, that of other individuals using our services and our staff, as well our operations and organization. We are bound to comply with all applicable laws and standards of care and may not be able to accommodate every request made of us, or every restriction an individual would like us to apply to our services.

Purpose:

The policy describes the management of the personal health information that we collect, use, disclose and retain to provide our services. In this Policy, personal health information (PHI) refers to information about an individual that relates to their health, health history, the health services provided to that individual, the identity of their health care providers, and demographic and contact information. Kerry's Place is a health information custodian (HIC), subject to Ontario's health information protection law, the Personal Health Information Protection Act, 2004, which we will refer to in this Policy as "PHIPA". This Policy applies to the PHI of individuals receiving services from Kerry's Place.

Roles and Responsibilities:

Kerry's Place:

1. Provides our employees with the training required for them to manage PHI and provide services in compliance with PHIPA, this Policy and best practices, and we refresh that training as appropriate;
2. Enters into contracts with our employees that require them to comply with PHIPA and this Policy;
3. Has designated a manager, or designate, with responsibility for enforcing compliance by our employees with the Privacy Policy and related policies and procedures ("Privacy Officer"); and

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4. Has designated a “Person Supported Services Officer” who individuals may contact with questions or concerns about our management of their PHI and more generally, their interactions with our staff and our services.

Standard/Procedure:

Assessment of Risk

As mentioned above, we will not be able to accommodate every request made by an individual in connection with our collection, use and disclosure of their PHI and the services we provide. That said, we commit to assessing the degree of risk associated with an individual’s choices about our services and documenting that assessment in the individual’s support plan. We will provide information and support to individuals to assist them in making choices that minimize any risk of harm including any negative impact on their health.

Collection of PHI

To assess the safety of particular choices available to individuals to whom we provide our services, we may collect any or all of the following information:

- age;
- history of medical conditions such as hypertension, osteoporosis or seizures (because they may impact safety while bathing, walking up and down stairs, participating in outside activities);
- the medication prescribed for the individual (including but not limited to for seizure prevention, reduce anxiety or hyperactive activity);
- the degree of assistance the individual requires for activities including ambulation, bathing, walking outdoors, walking up and down stairs, riding a bicycle among others;
- Information that assists in assessing whether an individual appreciates the consequences of a particular decision;
- Information that assists us in assessing an individual’s level of communication;
- Information about any other current or pre-existing physical, sensory, motor or behavioural concerns that might impact activities of daily living.

We also collect PHI we require to provide our services (separate and apart from the assessment of risk described above), including contact information, emergency contact information, demographics including SIN, finances and applicable budgets. Kerry's Place collects personal information through a variety of means and from different sources such as the person supported themselves, their families, Kerry's Place employees, government, other agencies, and professional contacts such as physicians. Kerry's Place collects and uses personal information for delivering services and supports to persons

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supported managing the organization, and for auditing purposes. Kerry's Place does not sell, trade, barter or exchange personal information about persons supported or their families.

Disclosure of PHI

Kerry's Place discloses personal information, as is reasonably necessary, to provide services and supports, to manage the organization, and to audit its operation. It may also disclose personal information:

- where required by law or by order of a court, administrative agency, or other government tribunal;
- where Kerry's Place has reasonable grounds to believe that the disclosure is necessary to protect the rights, privacy, safety, or property of an identifiable person or group;
- disclosure will be made to law enforcement where Kerry's Place has reasonable grounds to believe that the information relates to breach of an agreement or contravention of law;
- to other organizations or persons who provide services or supports on its behalf; and/or
- is already publicly available.


Kerry's Place only discloses personal information to other organizations or persons who process personal information on its behalf if they agree to use such information solely for the purposes of providing services to Kerry's Place as instructed by Kerry's Place and to act in a manner consistent with the relevant principles articulated in this policy.

Kerry's Place only discloses such personal information if the person supported or the Substitute Decision Maker (SDM) sign a release unless required by law. Where Kerry's Place is required to disclose personal information, it will not disclose more information than it is required to disclose.

Employees, Volunteers and other Service Providers

All employees, volunteers, board members, consultants, contractors and vendors (including their subcontractors or affiliates) must protect and respect the privacy of persons that Kerry's Place Autism Services serves, any information belonging to Kerry's Place Autism Services regarding persons and their families, and any information regarding the operation of the organization. Breach of confidentiality by an employee is a serious offence that may result in immediate termination of employment. A breach of confidentiality by contractors or vendors may result in immediate termination of contractual/service provider arrangements and possible legal consequences.

Note: B10 Confidentiality policy contains additional information regarding procedures for a breach or misuse of private and confidential information.

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Video recording

Video recording may be used for assessment, treatment, research and/or education purposes.

1. When used for **clinical purposes** (assessment and treatment), the video recording forms part of the individual’s clinical record and as such, the same standards of confidentiality, consent to use and disclosure, and right to access apply. The video recording will be subject to the retention period for other forms of clinical records. We will not use video recording for clinical purposes without consent. The purpose(s) for use of the video will be clearly outlined in the consent form.
2. Use of video recording for **research** will be in compliance with the requirements in PHIPA, including the submission of a research proposal and approval of an ethics board.
3. Use of video recording for **education** is restricted to education of our staff who are subject to the privacy obligations noted above as well as other controls.

As noted above, individuals may view the video recording on written request with members of the clinical team at a scheduled time and on our premises. We will not send video recordings through email or other means of transmission and we may require up to five days notice to locate a recording or the applicable parts of a recording. We may also review with individuals whether there are other means of addressing their concerns.

Kerry’s Place is committed to following legislated guidelines regarding the retention of personal files and video files, in accordance to the Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008 & Freedom of Information and Protection of Privacy Act. 2008. Refer to Policy FA 213 “Records Retention” for additional detail.

Video monitoring for operational purposes: safety and security

We may use video monitoring **inside and outside** our properties as a security measure (e.g., video-surveillance of the entrance and exits). Signs providing notice of video monitoring will be posted in the applicable areas. Video monitoring for operational purposes will not include audio and will only be carried out on-site. Video monitoring may include devices such as ipads and iphones and will not require consent in order to be used. Video monitoring will be used with an explanation of why it is being employed and staff and families will be notified if its use.

In circumstances of abuse allegations, staff will follow “Abuse Prevention and Response SS505” and may refer to “Policy on complaints/feedback process SS 511” should there be further discussion or disagreement on the matter.

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Families and other substitute decision makers of individuals receiving support from us are not to make video recordings surreptitiously. If there is a concern that family members believe could be addressed through video monitoring, we ask that the family consult with the manager who will then review the matter with the Person Supported Services Officer. There may be alternate measures of investigating and resolving a concern. We also need to be aware of and investigate any concerns regarding the services we provide or the responsible staff.

Staff will be notified if video recording is required in a home, and the reason why: e.g., health, safety of the individuals. Previous decisions of the Privacy Commissioner have found that staff images on videotapes are not their personal information but professional information. If staff are uncomfortable with video recording going on a home, they are to discuss with their manager.

Accuracy and Retention of Information

Kerry's Place endeavors to ensure that any personal information in its possession is as accurate, current, and as complete as necessary for the purposes for which Kerry's Place uses that information.

Kerry's Place retains personal information about persons supported only as long as necessary to fulfill the purpose for which it was collected or a related business or legal purpose.

Security of Information

Kerry's Place endeavors to maintain appropriate physical, procedural, and technical security with respect to its offices and information storage facilities in order to prevent any loss, misuse, unauthorized access, disclosure, or modification of a supported person's personal information. As part of these precautions, Kerry's Place restricts access to the personal information of persons supported to those employees and others (i.e., individuals or organizations processing personal information on Kerry's Place's behalf) who need to know that information in order that Kerry's Place may conduct its activities.

If an employee, volunteer, or student misuses the personal information of a supported individual, this will be considered as a serious offence for which disciplinary action may be taken, up to and including termination of the individual's employment, student placement, or volunteer position.

If an individual or organization that processes personal information on Kerry's Place' behalf does not comply with the terms under which Kerry's Place has given it access to personal information, this breach will be considered to be serious and may result in the termination of the individual's or organization's service contract. For Kerry's Place' practices around monitoring and reviewing information sent from, received through, and stored on Kerry's Place' information technology system, see FA-212 Electronic Information, Communication, and Equipment Procedures.

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Access to Persons Supported Own Personal Information and Correction

Requests from persons supported or their SDM will be forwarded to the appropriate manager who will ensure that the request is honoured unless there is a legal or legislated reason for not doing so. If original documents are being viewed by a person supported or his/her SDM, a member of management or a direct service employee should remain nearby to ensure that no documents are removed or destroyed. There are limited circumstances set out in PHIPA under which Kerry's Place can refuse an individual access to his or her PHI. Individuals may ask the Information and Privacy Commissioner of Ontario to review such refusals. Similarly, where Kerry's Place cannot validate a requested correction, it has authority to refuse to correct the record. In such circumstances, Kerry's Place will include a statement of disagreement to indicate that the accuracy of information has been challenged.

Privacy Officer Contact – Deborah Compton (905) 841-6611 Ext.90329

Person Supported Services Officer Contact – Carmela Campanella-Borraccia (905) 841-6611 Ext.90302

Evaluation:

This policy will be reviewed every three years.

Related Documents, Forms and Tools:

- FA 212 Electronic Information, Communication and Equipment Procedures
- FA 213 Records Retention Policy
- SS 511 Complaints Policy
- B 10 Confidentiality Policy
- Personal Health Information Protection Act, 2004
- Child, Youth and Family Services Act, 2017
- Services and supports to promote the social inclusion of persons with Developmental Disabilities Act, 2008
- Other relevant privacy legislation

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Appendix:

Appendix A



Video monitoring
(Operations) July 20: