



HOMES AND SENIORS SERVICES

POLICY & PROCEDURE NUMBER: 1.16

DEPARTMENT: Administration

SUBJECT: Health Information Privacy Policy-Resident Information-Access to Files

APPROVAL DATE: March 2015

REVISION DATE: March 2016

REVIEW DATE: March 2017

REVISION DATE: Oct. 2019

Page 1 of 15

Introduction

The County of Elgin is considered a health information custodian under the terms of the *Personal Health Information Protection Act (PHIPA, S.O. 2004)*. As such, the County confirms its strong commitment to protecting privacy and promoting accountability under the terms of the act in the operation of its long-term care facilities and ambulance services. At the same time, the County also maintains its duty to uphold the provisions of the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)* for all other corporate records. This policy applies to information and services as outlined below. For all other corporate records, the provisions of MFIPPA will continue to apply.

Scope

The County of Elgin is considered a single health information custodian under the terms of PHIPA. This information is created and maintained by the following facilities and services owned and/or operated by the County:

- Terrace Lodge Long Term Care Facility, Aylmer
- Elgin Manor Long Term Care Facility, Fingal
- Bobier Villa Long Term Care Facility, Dutton
- Land Ambulance Services (under contract with Medavie EMS).

Under the terms of PHIPA, “personal health information” means identifying information about an individual in oral or recorded form that:

- (a) relates to the physical or mental health of the individual, including information that consists of the health history of the individual's family;
- (b) relates to the providing of health care to the individual, including the identification of a person as a provider of health care to the individual;
- (c) is a plan of service within the meaning of the Long-Term Care Act, 2007 for the individual;
- (d) relates to payments or eligibility for health care in respect of the individual;
- (e) relates to the donation by the individual of any body part or bodily substance of the individual or is derived from the testing or examination of any such body part or bodily substance;
- (f) is the individual's health number; or
- (g) identifies an individual's substitute decision-maker.



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REVISION DATE: March 2016

REVIEW DATE: March 2017

REVISION DATE: Oct. 2019

Page 2 of 15

County of Elgin Health Information and Privacy Policy – Statement of Principles

The County's commitment to the responsible collection, use and disclosure of personal health information is articulated in the following ten principles:

Principle 1- Accountability

The County of Elgin is responsible for personal health information under its control and has designated a Privacy Officer to be accountable for the County's compliance with the following privacy principles:

- 1.1** Accountability for the County of Elgin's compliance with the privacy policy rests with the designated privacy officer, although all staff and volunteers of the County are responsible for the day-to-day collection and processing of personal health information. All staff share responsibility for adhering to the County's privacy policies and procedures.
- 1.2** The Director of Community and Cultural Services is designated as privacy officer by the County of Elgin to oversee compliance with its privacy policy under the terms of PHIPA on behalf of the corporation.
- 1.3** The County of Elgin is responsible for personal health information in its possession or custody, including information used by all employees, volunteers and other agents.
- 1.4** The County of Elgin is responsible for ensuring that its employees, volunteers and other agents are informed of the County's information practices and know their responsibilities relating to the collection, use and disclosure of personal health information.
- 1.5** The County of Elgin has written information practices in place that describe the organization's information management practices. These practices are available to the public.
- 1.6** The County of Elgin has policies and practices in place to receive and respond to complaints and inquiries.



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Principle 2 - Identifying Purposes

The County of Elgin will identify the purposes for the collection of personal health information at or before the time the information is collected. The purposes for collection include:

Make decisions about the types of services the individual requires;
Provide direct patient care;
Communicate with other service providers;
Monitor provision of services and evaluate the individual's response to services provided;
Administer hospital services, strategic planning, quality control, research, teaching, risk management, allocate resources within the organization, and verify eligibility for services;
Verify eligibility for payment by the Ministry of Health and Long-Term Care;
Meet legal and regulatory requirements.

2.1 The identified purposes are specified at or before the time of collection to the individual from whom the personal health information is collected. Depending upon the way in which the information is collected, this can be done orally or in writing. Upon admission, for example, a notice or brochure identifying the purposes may be posted or given to the individual.

2.2 When personal health information is used or disclosed for a purpose not previously identified and not previously consented to, the new purpose will be identified prior to use or disclosure. Unless the new purpose complies with the purposes identified, the consent of the individual will be obtained before the information will be used for another purpose.

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

Principle 3 – Consent

The knowledge and consent of the individual is required for the collection, use or disclosure of personal health information. However, in certain circumstances personal health information can be collected, used, or disclosed without the knowledge and consent of the individual. For example, legal, medical, or security reasons may make it impossible or impractical to seek consent. Acquiring consent may be impossible or inappropriate when the individual is a minor, cognitively impaired or seriously ill and the Substitute Decision Maker is not available. In such circumstances, the County of Elgin will follow the rules provided in the Health Care Consent Act, the Substitute Decisions Act and the Personal Health Information and Protection Act.

3.1 PHIPA establishes a model of implied consent in terms of the release of information to other health care providers. Individuals who therefore consent to the collection, use and disclosure of personal health information by the County of Elgin also implicitly consent to its use and disclosure to other health-care related agencies within an individual's "circle of care", provided that those agencies also uphold the same commitment to health privacy under the terms of the act. At the County of Elgin, this circle of care may include hospitals, local health



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REVISION DATE: March 2016

REVIEW DATE: March 2017

REVISION DATE: Oct. 2019

Page 4 of 15

integration networks, medical practitioners, social service agencies, health units and land ambulance service providers. However, individuals have the right to explicitly deny information to certain agencies within the “circle of care” and this right will be communicated to individuals by the County of Elgin.

3.2 When the County of Elgin receives personal health information from the individual, the individual’s Substitute Decision Maker, or another health information custodian for the purposes of providing health care, the County of Elgin will assume that the individual implies consent to collect, use and disclose the information as necessary for that purpose unless the individual has expressly withheld or withdrawn consent.

3.3 When an individual’s consent is required for collecting, using or disclosing personal health information, it will be knowledgeable, relate to the information, and not be obtained through coercion or deception. A consent is knowledgeable if it is reasonable to believe, in the circumstances, that the individual knows the purposes of the collection, use or disclosure, as the case may be, and that the individual may provide or withhold consent.

3.4 A consent to the disclosure of personal health information about an individual by the County of Elgin to a person who is not a health information custodian must be expressed. If the County of Elgin discloses personal health information to another health information custodian for a purpose other than providing health care, consent must also be expressed.

3.5 Typically, the County of Elgin will seek consent for the use or disclosure of the information at the time of collection. In certain circumstances, consent with respect to use or disclosure may be sought after the information has been collected but before use.

3.6 In obtaining consent, the reasonable expectations of the individual are also relevant. For example, an individual seeking admission to a long-term care facility can reasonably expect that the County of Elgin, in addition to using the individual’s name and address for administration purposes, will also use the information to communicate information about the availability of a room in the facility.

3.7 Consent can be given by the individual or an authorized Substitute Decision Maker if the individual is incapable. The County of Elgin will follow the rules outlined in PHIPA for obtaining consent on behalf of incapable individuals or for an individual who has died.

Principle 4 - Limiting Collection

The collection of personal health information shall be limited to that which is necessary for the purposes identified by the County of Elgin. Information will be collected by fair and lawful means.

4.1 The County of Elgin will only collect personal health information for lawful purposes permitted by PHIPA and by other Acts.



HOMES AND SENIORS SERVICES

POLICY & PROCEDURE NUMBER: 1.16

DEPARTMENT: Administration

SUBJECT: Health Information Privacy Policy-Resident Information-Access to Files

APPROVAL DATE: March 2015

REVISION DATE: March 2016

REVIEW DATE: March 2017

REVISION DATE: Oct. 2019

Page 5 of 15

- 4.2 The County of Elgin will not collect personal health information if other information can serve the purpose.
- 4.3 The County of Elgin will not collect personal health information indiscriminately. Both the amount and the type of information collected will be limited to that which is necessary to fulfill the purposes identified.
- 4.4 Personal health information will be collected by fair and lawful means.
- 4.5 Information may be collected indirectly without the consent of the individual in certain circumstances when the information is reasonably necessary for the provision of healthcare to the individual. These circumstances include: where it is not reasonably possible to collect the information from the individual in a timely manner; where it is not reasonably possible to rely on the information from the individual as accurate; where another Act permits the collection.

Principle 5 - Limiting Use, Disclosure, and Retention

Personal health 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 health information will be retained as long as necessary for the provision of care and according to the County of Elgin's retention policy.

- 5.1 The County of Elgin will use and disclose personal health information for lawful purposes permitted or required by PHIPA and by other Acts.
- 5.2 The County of Elgin will not use or disclose personal health information if other information can serve the purpose.
- 5.3 The County of Elgin will not use or disclose personal health information indiscriminately. Both the amount and the type of information used and disclosed will be limited to that which is necessary to fulfill the purposes identified.
- 5.4 The County of Elgin will use and disclose personal health information for the purposes identified. If the County uses or discloses this information for a new purpose, it will document this purpose and obtain consent (for instance, use in an advertising campaign).
- 5.5 If personal health information is used or disclosed without an individual's consent in a circumstance that requires consent, the County of Elgin will make a note of such use and/or disclosure, and inform the individual of the use or disclosure at the first reasonable opportunity. The County will keep the note as part of the record about the individual or in a form that is linked to those records.
- 5.6 The County of Elgin may disclose personal health information to a health care provider if the disclosure is reasonably necessary for the provision of health care and it is not reasonably possible to obtain consent in a



HOMES AND SENIORS SERVICES

POLICY & PROCEDURE NUMBER: 1.16

DEPARTMENT: Administration

SUBJECT: Health Information Privacy Policy-Resident Information-Access to Files

APPROVAL DATE: March 2015

REVIEW DATE: March 2017

REVISION DATE: March 2016

REVISION DATE: Oct. 2019

Page 6 of 15

timely manner.

5.7 The County of Elgin may disclose personal health information where the disclosure is necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm to an individual, a person or group of persons.

Principle 6 – Accuracy

The County of Elgin will take reasonable steps to ensure personal health information is as accurate, complete, and up-to-date as is necessary for the purposes for which it is to be used.

6.1 The County of Elgin will not routinely update personal health information, unless such a process is necessary to fulfil the purposes for which the information was collected.

Principle 7 – Safeguards

Personal health information will be protected by security safeguards appropriate to the sensitivity of the information.

7.1 The County of Elgin security safeguards will protect personal health information against loss or theft, as well as unauthorized access, disclosure, copying, use, or modification. The County of Elgin will protect personal health information regardless of the format in which it is held, e.g., verbal, paper or electronic.

7.2 The County of Elgin ensures that the records of personal health information in its custody and control are retained, transferred and disposed of in a secure manner.

7.3 The methods of protection include:

- physical measures; for example, locked filing cabinets and restricted access to offices;
- organizational and technical measures, such as acceptable use policies of the County's information technology systems and use of passwords/security features to access information systems.

7.4 The County of Elgin makes its employees, volunteers and other agents aware of the importance of maintaining the confidentiality of personal health information. As a condition of employment, all County employees and volunteers must comply with the County's Code of Conduct and Acceptable Use Policy for Computer Equipment, Software, Internet Access and Internet E-mail which contains provisions for the confidentiality of County information.



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DEPARTMENT: Administration

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APPROVAL DATE: March 2015

REVISION DATE: March 2016

REVIEW DATE: March 2017

REVISION DATE: Oct. 2019

Page 7 of 15

7.5 Care is taken in the disposal or destruction of personal health information, to prevent unauthorized parties from gaining access to the information.

7.6 The County of Elgin will notify an individual at the first reasonable opportunity if personal health information is stolen, lost or accessed by unauthorized persons

Principle 8 – Openness

The County of Elgin will make readily available to individuals specific information about its policies and practices relating to the management of personal health information.

8.1 The County of Elgin sets out its information practices in writing and makes this information available to the public.

8.2 The County of Elgin may make information on its policies and practices available in a variety of ways. This may include notices and brochures posted within County facilities, information sent directly to family members and online access to privacy policies.

Principle 9 - Individual Access

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

Note: *In certain situations, the County of Elgin may not be able to provide access to all the personal health information that it holds about an individual. Exceptions to the access requirement will be limited and specific. The reasons for denying access will be provided to the individual upon request. Exceptions may include: 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 an individual or group of individuals; information that is prohibitively costly to provide; information that contains references to other individuals; information that cannot be disclosed for legal reasons; and information that is subject to solicitor-client or litigation privilege.*

9.1 The County of Elgin will provide an individual with access to his or her record of personal health information, except in limited circumstances. If the County refuses an access request, the individual is entitled to make a complaint to the Office of the Information and Privacy Commissioner of Ontario.

9.2 The County of Elgin will provide a request form to enable the individual to access his or her record and is committed to fulfilling these requests as quickly as possible. Under PHIPA, the County can take up to 30 days to



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DEPARTMENT: Administration

SUBJECT: Health Information Privacy Policy-Resident Information-Access to Files

APPROVAL DATE: March 2015

REVIEW DATE: March 2017

REVISION DATE: March 2016

REVISION DATE: Oct. 2019

Page 8 of 15

provide access.

9.3 There shall be no charge to a resident or substitute decision-maker to inspect his/her personal health information maintained by the County of Elgin. The County may charge the individual seeking access a fee for facilitating research and providing copies. Applicable fees will be the same as those established under the terms of the *Municipal Freedom of Information and Protection of Privacy Act*.

9.4 An individual will be required to provide sufficient written information to permit the County of Elgin to provide an account of the existence, use, and disclosure of personal health information. The information provided shall only be used for this purpose.

9.4 An individual may request the County of Elgin to correct his or her personal health information if he or she believes that the record is inaccurate or incomplete. An individual must successfully demonstrate the inaccuracy or incompleteness of personal health information and give the County of Elgin the necessary information to correct the record.

9.5 The County of Elgin will notify persons to whom the record was previously disclosed of the correction except where the correction would not affect the provision of health or other benefits.

9.7 When the County of Elgin is unable to make a correction, the County will inform the individual of the refusal, provide reasons and inform him or her of the right to appeal the refusal or the right to attach a statement of disagreement to the individual's health information.

Principle 10 – Challenging Compliance

An individual will be able to address a challenge concerning compliance with the above principles to the County's designated privacy officer.

10.1 An individual who has grounds to believe that the County of Elgin has contravened PHIPA may make a complaint in writing to the designated privacy officer. Sample complaint forms will be made available if necessary. The designated privacy officer will respond to all complaints or inquiries about its information practices relating to the handling of personal health information. If an individual wants to complain to the Information and Privacy Commissioner, the designated privacy officer will inform the individual how to lodge the complaint.

10.2 If a complaint is found to be justified through the internal or external complaint review process, the County of Elgin will take appropriate measures, including, if necessary, amending its information practices.



HOMES AND SENIORS SERVICES

POLICY & PROCEDURE NUMBER: 1.16

DEPARTMENT: Administration

SUBJECT: Health Information Privacy Policy-Resident Information-Access to Files

APPROVAL DATE: March 2015

REVISION DATE: March 2016

REVIEW DATE: March 2017

REVISION DATE: Oct. 2019

Page 9 of 15

Third Party Contracts - Persons or Providers That Supply Certain Services

The County of Elgin occasionally enters into agreements and contracts with third-party vendors or agencies for the provision of health-related services. Whenever such a contract is established, the County will confirm that a person or provider knows the requirements of PHIPA and is able to comply. Terms for the administration of the act will become a schedule to the contract as outlined in "Appendix C". Failure to provide evidence of compliance may result in the termination of the contract or delay in its implementation. With such a contract established, the County has the right to hold liable third-party vendors or agencies who violate provisions of PHIPA in the course of providing services under the contract. Examples of such third-party contracts include ambulance services, electronic information services and providers of health information networks.

Sample Forms

The County of Elgin is committed to the terms of this policy through the implementation and use of the following forms and notices as attached:

Appendix A : Health Privacy Notice – This notice will be integrated into new resident registration packages in long-term care facilities and will also be posted within each facility.

Appendix B: Notice and Consent form – This form is to be completed by each current and future resident of the County's long-term care facilities. It established the basis of the implied consent model under PHIPA, meaning that the County is then authorized to share information with other agencies that fall under PHIPA and are within the resident's "circle of care".

Appendix C: Third Party Service Provider Agreement for the Management of Health Information.



HOMES AND SENIORS SERVICES

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DEPARTMENT: Administration

SUBJECT: Health Information Privacy Policy-Resident Information-Access to Files

APPROVAL DATE: March 2015

REVIEW DATE: March 2017

REVISION DATE: March 2016

REVISION DATE: Oct. 2019

Page 10 of 15

County of Elgin Health Information Privacy Policy – Appendix A: Health Privacy Notice



KEEPING YOUR HEALTH INFORMATION PRIVATE IS IMPORTANT TO US!

The County of Elgin provides you with a broad variety of healthcare services. To meet your needs and serve you well, we need to know personal health information about you. You have a right to know how we collect, use and disclose personal health information. You have a right to expect that, to the best of our ability, personal health information held by the County of Elgin remains accurate, confidential and secure. The County is committed to maintaining the confidentiality and security of personal health information. Our practices are aligned with Ontario's Personal Health Information Protection Act (PHIPA).

The County collects, uses, discloses and stores information about you and your health. This information is collected to help provide health care or payments for health care. This includes:

- Your contact information and the contact information of your next of kin or an individual who is authorized to act on your behalf;
- Information about your health, health care history and the health care we provide;
- Information about payment for your health care including your Ontario Health Card number.

We use this information and share it only with those who need to know that information. For instance, we use it to:

- Make decisions about the types of services you need;
- Provide direct patient care;
- Communicate with other service providers;
- Monitor provision of services and evaluate your response to services provided;
- Administer services, strategic planning, quality control, research, teaching, risk management, allocate resources within the organization, and verify eligibility for services;
- Verify eligibility for payment by the Ministry of Health and Long-Term Care;
- Meet legal and regulatory requirements.



HOMES AND SENIORS SERVICES

POLICY & PROCEDURE NUMBER: 1.16

DEPARTMENT: Administration

SUBJECT: Health Information Privacy Policy-Resident Information-Access to Files

APPROVAL DATE: March 2015

REVIEW DATE: March 2017

REVISION DATE: March 2016

REVISION DATE: Oct. 2019

Page 11 of 15

NOTE: If you do not object, we will:

- use your name and address as part of our fund-raising activities;
- disclose your name and location to a person representing your religious organization if you provide us with information about your religious affiliation;
- respond to inquiries from family and friends confirming your presence in the facility, your room number and provide information on your general health status;

These are your rights:

- You may see or have access to, or receive a copy of your personal health information;
- You may ask us to correct your patient record;
- Your personal health information is private. Unless sharing it with others is permitted or required by law, we cannot and will not give out any of your personal health information without your consent;
- You may ask questions or make a complaint to the County's Privacy Officer about our information management practices.

If you would like to know more about how your personal health information is collected, used, stored, and disclosed contact our designated Privacy Officer at 519-631-1460, extension 138.

Reference: Elgin County Health Information Privacy Policy



HOMES AND SENIORS SERVICES

POLICY & PROCEDURE NUMBER: 1.16

DEPARTMENT: Administration

SUBJECT: Health Information Privacy Policy-Resident Information-Access to Files

APPROVAL DATE: March 2015

REVISION DATE: March 2016

REVIEW DATE: March 2017

REVISION DATE: Oct. 2019

Page 12 of 15

County of Elgin Health Information Privacy Policy – Appendix B: Notice and Consent form

KEEPING YOUR HEALTH INFORMATION PRIVATE IS IMPORTANT TO US!

The County of Elgin provides you with a broad variety of healthcare services. To meet your needs and serve you well, the County needs to know personal health information about you.

You have a right to know how we collect, use and disclose personal health information. You have a right to expect that, to the best of our ability, personal health information held by the County remains accurate, confidential and secure.

The County is committed to maintaining the confidentiality and security of personal health information. We have implemented new practices to further safeguard your information. These new practices are aligned with Ontario's Personal Health Information Protection Act (PHIPA).

The County collects, uses, discloses and stores information about you and your health. This information is collected to help provide health care or payments for health care. This includes:

- Your contact information and the contact information of your next of kin or an individual who is authorized to act on your behalf;
- Information about your health, health care history and the health care that you have been given;
- Information about payment for your health care including your Ontario Health Card number.

We use this information and share it only with those who need to know that information. For instance, we use it to:

- Make decisions about the types of services you need;
- Provide direct patient care;
- Provide medical information to family members or other service providers within the individual's circle of care. This circle of care may include hospitals, community care access centres, medical practitioners, social service agencies and land ambulance service providers;
- Monitor provision of services and evaluate your response to services provided;
- Administer services, strategic planning, quality control, research, teaching, risk management, allocate resources within the organization, and verify eligibility for services;



HOMES AND SENIORS SERVICES

POLICY & PROCEDURE NUMBER: 1.16

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SUBJECT: Health Information Privacy Policy-Resident Information-Access to Files

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REVISION DATE: March 2016

REVIEW DATE: March 2017

REVISION DATE: Oct. 2019

- Verify eligibility for payment by the Ministry of Health and Long-Term Care;
- Meet legal and regulatory requirements.

NOTE: If you do not object we will:

- Use your name and address as part of our fund-raising activities;
- Disclose your name and location to a person representing your religious organization if you provide us with information about your religious affiliation;
- Respond to inquiries from family and friends confirming your presence in the facility, your room number and provide information on your general health status.

Appendix B: Notice and Consent form (continued)

These are your rights:

- You may see or have access to, or receive a copy of your personal health information;
- You may ask us to correct your patient record;
- Your personal health information is private. Unless sharing it with others is permitted or required by law, we cannot and will not give out any of your personal health information without your consent;
- You may ask questions or make a complaint to the County's designated Privacy Officer about our information management practices.

If you would like to know more about how your personal health information is collected, used, stored, and disclosed contact our designated Privacy Officer at 519-631-1460, extension 138.

Consent

I, _____, have reviewed the above summary of information relating to the County of Elgin's Notice. I have had an opportunity to have questions answered regarding the Notice and feel that I have a reasonable understanding of the Notice. I hereby authorize the collection, use and disclosure of my personal health information by the County of Elgin in order to facilitate the provision of care and service to myself and for specific, related purposes as detailed in this Notice.

Resident/Client name (Print) _____

DOB (mm/dd/yy) _____

Signature _____

If the Resident/Client is unable to sign:



HOMES AND SENIORS SERVICES

POLICY & PROCEDURE NUMBER: 1.16

DEPARTMENT: Administration

SUBJECT: Health Information Privacy Policy-Resident Information-Access to Files

APPROVAL DATE: March 2015

REVISION DATE: March 2016

REVIEW DATE: March 2017

REVISION DATE: Oct. 2019

Name of Substitute Decision Maker (SDM) _____

Relationship to Resident/Client _____

Signature of SDM _____

County of Elgin Health Information Privacy Policy – Appendix C: Third Party Service Provider Agreement

**County of Elgin
Personal Health Information Protection Act
Service Provider Agreement for the Management of Health Information**

Name of Service Provider (hereby known as the provider)

(address/contact information)

The County of Elgin is considered a health information custodian under the terms of the *Personal Health Information Protection Act (PHIPA, S.O. 2004)*. The provider has agreed to provide a health-related service on behalf of the County and, as a result, will be compiling and maintaining health-related information on the County's behalf.

Nature of Service:

The provider is aware of and affirms its compliance with the provisions of the *Personal Health Information Protection Act*. The County maintains the right to inspect records maintained by the provider for assurances of compliance and accuracy of information, or have a third party audit the privacy policies and practices of the provider.

The provider also affirms that health information will be securely stored and maintained in accordance with *PHIPA*.

The provider hereby agrees to abide by the terms of this agreement.



HOMES AND SENIORS SERVICES

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SUBJECT: Health Information Privacy Policy-Resident Information-Access to Files

APPROVAL DATE: March 2015

REVIEW DATE: March 2017

REVISION DATE: March 2016

REVISION DATE: Oct. 2019

Page 15 of 15

On behalf of the provider:

(signature)

(name/title)

(date)

On behalf of the County of Elgin:

(signature)

(name/title)

(date)