

MAPLE VILLA LONG TERM CARE CENTRE

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ISSUED & APPROVED BY: ADMINISTRATOR REVIEWED/REVISED: SEPTEMBER 2023

SIGNATURE: Russell Borden

TO: ALL STAFF

SUBJECT: PERSONAL HEALTH INFORMATION PROTECTION POLICY

At Maple Villa, we are committed to upholding the confidentiality and security of your personal information. We respect your right to privacy and have instituted practices that will help ensure that your personal health information is handled responsibly. While we have always respected our residents', substitute decision makers (SDM), families' and employees' privacy and safeguarded their personal information, we have strengthened our commitment to protecting personal information as a result of *Personal Information Protection and Electronic Documents Act* (PIPEDA). Personal information is private. Unless sharing it with others is authorized by law, we cannot and will not give out any of your information without your consent.

We will inform our residents, SDMs, families, and employees of why and how we collect, use and disclose their personal information, obtain their consent where required, and only handle their personal information in a manner that a reasonable person would consider appropriate in the circumstances.

Definitions

Personal Health Information – "Personal health information", with respect to an *individual*, whether living or deceased, means:

- (a) information (verbal, written or electronic) concerning the physical or mental health of the individual;
- (b) information (verbal, written or electronic) concerning any health service provided to the individual;
- (c) information (verbal, written or electronic) concerning 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;
- (d) information (verbal, written or electronic) that is collected in the course of providing health services to the individual; or
- (e) information (verbal, written or electronic) that is collected incidentally to the provision of health services to the individual.

Personal Information – means information (verbal, written or electronic) about an identifiable *individual*, but does not include the name, title or business address or telephone number of an employee of an organization.

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Privacy Officer – means the individual designated responsibility for ensuring that Maple Villa Long Term Care Centre complies with this policy, PHIPA and PIPEDA.

Resident – means an *individual* residing or applying to reside in long term care.

Capable Resident –A resident is capable of consenting to the collection, use or disclosure of personal health information if the resident is able to:

- a. Understand information relevant to the decision of whether to consent to the collection, use or disclosure of personal health information, and
- b. Appreciate the reasonably foreseeable consequences of giving, not giving, withholding or withdrawing consent.

1. Collecting Personal Health Information

1.1 Unless the purposes for collecting personal information are obvious and the residents, SDMs, families, and employees voluntarily provides his or her personal information for those purposes, we will communicate the purposes for which personal information is being collected, either orally or in writing, before or at the time of collection.

1.2 We will only collect resident, substitute decision maker, family, and employee information that is necessary to fulfill the following purposes:

- To verify identity;
- To identify resident, SDM, family, and employee preferences;
- To deliver or provide requested products and services;
- To send out association membership information;
- To contact our resident, SDM, family, and employee for fundraising;
- To plan, administer and manage our internal operations;
- To conduct risk management activities;
- To conduct quality improvement activities (such as sending client satisfaction surveys)
- To teach;
- To compile statistics;
- To fundraise to improve our health care services and programs;
- To ensure a high standard of service to our residents, SDMs, families, and employees;
- To meet regulatory requirements;
- To collect and process accommodation payments;

2. Consent

2.1 We will obtain capable resident, SDM, family, and employee consent to collect, use or disclose personal information (except where, as noted below, we are authorized to do so without consent).

2.2 Consent can be provided orally, in writing, or electronically, or it can be implied where the purpose for collecting using or disclosing the personal information would be considered obvious and the resident, SDM, family, and employee voluntarily provides personal information for that purpose.

2.3 Consent may also be implied where a resident, SDM, family, and employee is given notice and a reasonable opportunity to opt-out of his or her personal information being used for mail-outs, newsletters, fundraising and the resident, SDM, family, and employee does not opt-out.

2.4 Subject to certain exceptions (e.g., the personal information is necessary to provide the service or product, or the withdrawal of consent would frustrate the performance of a legal obligation), residents, SDMs, families, and employees can withhold or withdraw their consent for Maple Villa Long Term Care Centre to use their personal information in certain ways. A resident's, SDM's, family's, and employee's decision to withhold or withdraw their consent to certain uses of personal information may restrict our ability to provide a particular service or product. If so, we will explain the situation to assist the resident, SDM, family, and employee in making the decision.

2.5 We may collect, use or disclose personal information without the resident's, SDM's, family's, and employee's knowledge or consent in the following limited circumstances:

- When the collection, use or disclosure of personal information is permitted or required by law;
- In an emergency that threatens an individual's life, health, or personal security;
- When the personal information is available from a public source (e.g., a telephone directory);
- When we require legal advice from a lawyer;
- For the purposes of collecting a debt;
- To protect ourselves from fraud;
- To investigate an anticipated breach of an agreement or a contravention of law

2.6 Consent for Collection, Use and Disclosure of Personal Health Information:

a) Obtaining Consent Where the Resident is Capable

Where the resident is capable and PHIPA requires consent prior to the collection, use or disclosure of personal health information, the consent must be obtained from the resident or from any capable person sixteen years of age or older authorized in writing by the resident to provide the consent on his or her behalf. A resident is capable of consenting to the collection, use or disclosure of personal health information if the resident is able to:

- Understand information relevant to the decision of whether to consent to the collection, use or disclosure of personal health information, and
- Appreciate the reasonably foreseeable consequences of giving, not giving, withholding or withdrawing consent

Long-term care homes may presume that a resident is capable of consenting to the collection, use or disclosure of personal health information unless it is unreasonable to do so.

b) Obtaining Consent Where the Resident is Incapable

Where a resident is incapable of consenting to the collection, use or disclosure of personal health information, the following persons (in the following order of priority) may provide consent on behalf of the resident:

- A substitute decision-maker under section 9, section 39 and section 56 of the *Health Care Consent Act, 1996* if the purpose of the collection, use or disclosure is necessary for or ancillary to a decision about treatment under Part II, a decision about admission to a care facility under Part III, or a decision about a personal assistance service under Part IV of the *Health Care Consent Act, 1996* respectively;
- The resident's guardian of the person or guardian of property, if the consent relates to the guardian's authority to make a decision on behalf of the resident;
- The resident's attorney for personal care or attorney for property, if the consent relates to the attorney's authority to make a decision on behalf of the resident;
- The resident's representative appointed by the Consent and Capacity Board;
- The resident's spouse or partner;
- A child or parent of the resident;
- A parent of the resident with only a right of access;
- A sibling of the resident; or
- Any other relative of the resident.

A person listed may consent on behalf of the resident only where there is no person ranked higher on the above list or where the person ranked higher in the list is incapable, unavailable or unwilling to make a decision of whether or not to consent.

c) Obtaining Consent Where the Resident is Deceased

Where the resident has died:

- The estate trustee
- Or the person who assumed responsibility for the administration of the estate, if the estate does not have an estate trustee,

May consent to the collection, use or disclosure of personal health information on behalf of the resident after their identity has been verified.

3. Using and Disclosing Personal Information

3.1 We will only use or disclose resident, SDM, family, and employee personal information where necessary to fulfill the purposes identified at the time of collection or for a purpose reasonably related to those purposes such as:

- To conduct resident, SDM, family, and employee surveys in order to enhance the provision of our services;
- To contact our residents, SDMs, families, and employees directly about products and services that may be of interest.

3.2 We will not use or disclose resident, SDM, family, and employee personal information for any additional purpose unless we obtain consent to do so.

3.3 We will not sell resident, SDM, family, and employee lists or personal information to other parties.

4. Retaining Personal Information

4.1 If we use resident, SDM, family, and employee personal information to make a decision that directly affects the resident, SDM, family, and employee, we will retain that personal information for at least one year so that the resident, SDM, family, and employee has a reasonable opportunity to request access to it.

4.2 Subject to policy 4.1, we will retain resident, SDM, family, and employee personal information only as long as necessary to fulfill the identified purposes or a legal or business purpose.

5. Ensuring Accuracy of Personal Information

5.1 We will make reasonable efforts to ensure that resident, SDM, family, and employee personal information is accurate and complete where it may be used to make a decision about the resident, SDM, family, and employee or disclosed to another organization.

5.2 Residents, SDMs, Families, and Employees may request correction to their personal information in order to ensure its accuracy and completeness. A request to correct personal information must be made in writing and provide sufficient detail to identify the personal information and the correction being sought.

5.3 If the personal information is demonstrated to be inaccurate or incomplete, we will correct the information as required and send the corrected information to any organization to which we disclosed the personal information in the previous year. If the correction is not made, we will note the residents', SDMs', families', and employees' correction request in the file.

6. Securing Personal Health Information

6.1 We are committed to ensuring the security of resident, SDM, family, and employee personal information in order to protect it from unauthorized access, collection, use, disclosure, copying, modification or disposal or similar risks.

6.2 The following security measures will be followed to ensure that resident, SDM, family, and employee personal information is appropriately protected:

- Physical measures such as locked filing cabinets, alarm systems and restricting access to areas in which personal information is stored; Technical resources such as firewalls, encryption software and password protection.
- Organizational controls including security clearance measures, staff training, the use of confidentiality agreements and limiting access to only those who need the information;
- We expect our residents, SDMs, families, and employees to assist us in protecting personal and personal health information and to take all appropriate measures to safeguard personal information belonging to them. This includes ensuring that:

-any individuals who have requested personal or personal health information and those to who our residents, SDMs, families, and employees are sending it are authorized to receive the information

-the method by which the information is transmitted (e.g. email, fax, telephone, electronic media, etc.) will adequately protect the confidentiality of the information in light of its sensitivity

6.3 We will use appropriate security measures when destroying resident's, SDM's, family's, and employee's personal information such as shredding documents (3rd party contract), secure deletion of electronically stored information.

6.4 We will continually review and update our security policies and controls as technology changes to ensure ongoing personal information security.

7. Providing Residents, Substitute Decision Makers, Families, and Employees Access to Personal Information

7.1 Residents, SDMs, Families, and Employees have a right to access their personal information, subject to limited exceptions such as:

- solicitor-client privilege,
- disclosure would reveal personal information about another individual,
- health and safety concerns.

7.2 A request to access personal information must be made in writing and provide sufficient detail to identify the personal information being sought. A request to access personal health information should be forwarded to the Privacy Officer.

7.3 Upon request, we will also tell residents, SDMs, families, and employees how we use their personal information and to whom it has been disclosed if applicable.

7.4 We will make the requested information available within 30 business days, or provide written notice of an extension where additional time is required to fulfill the request.

7.5 A minimal fee may be charged for providing access to personal information. Where a fee may apply, we will inform the resident, SDM, family, and employee of the cost and request further direction from the resident, SDM, family, and employee on whether or not we should proceed with the request.

7.6 If a request is refused in full or in part, we will notify the resident, SDM, family, and employee in writing, providing the reasons for refusal and the recourse available to the resident, SDM, family, and employee.

8. Questions and Complaints: The Role of the Privacy Officer

8.1 The **Privacy Officer** is responsible for ensuring Maple Villa Long Term Care Centre's compliance with this policy and the *Personal Information Protection Act*.

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8.1 The **Privacy Officer** is responsible for ensuring Maple Villa Long Term Care Centre's compliance with this policy and the *Personal Information Protection Act*.

8.2 Residents, SDMs, Families, and Employees should direct any complaints, concerns or questions regarding Maple Villa Long Term Care Centre's compliance in writing to the Privacy Officer. If the Privacy Officer is unable to resolve the concern, the resident, SDM, family, and employee may also contact the:

Information and Privacy Commissioner of Ontario
1-800-387-0073,
www.icp.on.ca.

Contact information for Maple Villa Long Term Care Centre's **Privacy Officer**:

Russell Borden, Administrator
441 Maple Avenue
Burlington, ON
L7S 1L8
905-639-2264
maplevilla@maplevilla.ca

9. Education and Ongoing Training

9.1 All persons employed at Maple Villa who have the responsibility of obtaining, recording, disclosing and storing personal/personal health information shall be aware of and understand this policy (shall sign in acknowledgement).