

Privacy Policy			
Section	General Policies & Procedures – Ethical Practices, Risk Management	Policy Owner(s): President & CEO, Director of Programs and Services, Director –HR, Program Managers and Program Supervisors	
Authorized by	Board	Date	Sept 27, 2023
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Objective:

Aptus Treatment Centre (“Aptus”) recognizes the importance of privacy in respect of Personal Information of the people we support (“People Supported”), those who otherwise access our services, and third parties who participate in our fundraising activities.

Aptus will take all reasonable steps to comply with applicable privacy legislation, including the *Personal Health Information Protection Act* (“PHIPA”), and all privacy and confidentiality obligations under any funding agreement made under the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008*. Aptus is committed to properly managing the Personal Information it collects, uses, and discloses in the course of providing services and in fundraising.

Purpose:

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

Definitions:

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

“Capable”: in respect of giving consent, individuals are capable if they are able to understand the information that is relevant to them in deciding whether to consent, and they can appreciate the reasonably foreseeable consequences of giving, not giving, withdrawing, or withholding consent. An individual may have capacity to consent to some actions but not others, and at some times but not others. An individual is presumed to be capable unless Aptus has reasonable grounds to believe that the individual is incapable of consenting to the matter at issue.

“Collect”: to gather, acquire, receive, or obtain information by any means from any source.

“Disclose”: to make the information available or to release it, but disclosing does not mean to use the information.

“Consent”: permission from either a person who is capable of consenting or, if the person is not capable, an authorized substitute decision maker, concerning Personal Information about the individual giving consent. Consent may be express or implied, must be informed and

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knowledgeable, and must not be obtained as a result of deception or coercion.

“Health Care:” per *PHIPA*, health care is any observation, examination, assessment, care, service, or procedure that is provided for a health-related purpose and that:

- (a) Is carried out or provided to diagnose, treat, or maintain an individual’s physical or mental condition,
- (b) Is carried out or provided to prevent disease or injury or to promote health, or
- (c) Is carried out or provided as part of palliative care (though this is not part of Aptus’ services),

Health care includes the compounding, dispensing, or selling of a drug, a device, equipment or any other item to an individual, or for the use of the individual, pursuant to a prescription.

“Personal Information”: information about an identifiable Person Supported or other person who receives services from Aptus or is a third party involved in fundraising. Personal Information includes Personal Health Information about Persons Supported and other persons who receive Services from Aptus.

For clarity, “Personal Information” under this policy does not apply to identifiable information about employees or contractors of Aptus unless such persons also receive services from Aptus or have their information collected for fundraising purposes (as distinct from their employment or contract roles).

“Personal Health Information”: information about People Supported or other persons who receive services from Aptus, in oral or recorded form, relating to any of the following:

- Health Care;
- Payments or eligibility for Health Care in respect of the individual;
- The individual’s health number;
- The identity of the individual’s substitute decision maker;
- Any other information identified as falling within the scope of Personal Health Information under *PHIPA*.

For clarity, “Personal Health Information” under this policy does not apply to information about employees or contractors of Aptus unless such persons also receive Health Care services from Aptus.

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“**Use**”: to view, handle or otherwise deal with information, but does not include disclosing information.

Application:

This Policy applies to all personal information of People Supported by Aptus, the personal information of anyone else who receives Aptus services, and personal information obtained by Aptus for fundraising purposes.

Aptus staff members, volunteers and members of the Board of Directors are required to comply with this Policy. Aptus will seek to ensure that any third-party service providers will be required to comply and this Policy will be incorporated as a required term of such contract.

Responsibilities and Implementation

The Chief Privacy Officer:

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

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

- Ensure that a general privacy statement is made available to People Supported and others who receive services from Aptus, outlining concisely their privacy rights (consistent with this Policy) and the manner in which a complaint or correction/access request can be made (“General Privacy Statement”);
- Inform, educate, and ensure training is provided to workers, volunteers, and members of the Board of Directors about this Policy;
- Monitor and enforce compliance by workers, volunteers, members of the Board of Directors, and third-party services with the practices and procedures set out in the Policy;
- Ensure that this Policy is available for People Supported, others who receive services from Aptus, workers, volunteers, and Aptus’ Board of Directors, and third-party services, and third parties Aptus interacts with for fundraising purposes.
- Respond to inquiries concerning Aptus’ information practices and this Policy;
- Respond to complaints regarding Aptus’ information practices or this Policy;
- Respond to requests by or on behalf of individuals for access to or correction of Personal Information as described in this Policy;

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- Investigate and correct errors in an individual’s Personal Information records, subject to any restrictions or limitations placed upon correction by privacy legislation;
- Evaluate and determine the appropriate retention period by Aptus of Personal Information.
- In circumstances where Aptus may be required to provide Personal Information in response to a legal inquiry or order, ensure that the order is valid and disclose only the Personal Information that is legally required; and
- Ensure that Aptus has appropriate procedures in place to obtain and record consent by People Supported, other people receiving services from Aptus, and third parties Aptus engages for fundraising purposes for the collection, use, and disclosure of their Personal Information, and that these procedures are followed by workers, volunteers, members of the Board of Directors, and third party services.

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

- Review and follow this Policy and any procedures put in place by Aptus under or in association with this Policy;
- Attend and participate in all training with respect to this Policy;
- Review this policy with People Supported in a language and manner, and with a level of support, that is appropriate to their capacity.

The Collection, Use, and Disclosure of Personal Information

Consent Generally:

Aptus shall not collect, use or disclose Personal Information about a Person Supported, another person receiving Services from Aptus, or third parties engaged for fundraising purposes unless:

- (1) The collection, use, or disclosure meets the following requirements:
 - a. Aptus has the consent of the Individual or their authorized substitute decision maker;
 - b. The collection, use, or disclosure is necessary for a lawful purpose;
 - c. Other information available to Aptus is not sufficient to accomplish that purpose; and
 - d. Only the Personal Information reasonably necessary for that purpose is collected, used, or disclosed; or
- (2) The collection, use, or disclosure is permitted or required by applicable legislation.

In the event that legislation permits or requires the collection, use, or disclosure of Personal

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Information without consent, the decision of whether to require consent shall be made by Aptus on a case by case basis or as required by law.

When Aptus seeks to obtain consent to collect, use, or disclose personal information, it shall provide an explanation of the purpose or purposes for which it is seeking to collect, use, or disclose the information.

Aptus may also determine that consent for the collection, use, or disclosure of Personal Information is implied where it is reasonable to do so, consistent with applicable privacy legislation.

Consent to the collection, use, or disclosure of Personal Information may be withdrawn at any time with reasonable notice or refused, subject to legal and contractual requirements. Aptus will not deny services on the basis of refusal to consent to information beyond that necessary to fulfil explicitly specified and legitimate purposes. Where consent is withdrawn, Aptus shall explain to the individual the implications of withdrawing consent.

Where express Consent is required or obtained, Aptus shall keep adequate record of such consent having been given or not given.

Where Aptus reasonably believes that a person is incapable of consenting to the collection, use, or disclosure of Personal Health Information, Aptus will provide the individual information about the consequences of a determination of incapacity as defined by *PHIPA*.

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

Currently, the purposes for which Aptus collects, uses, and discloses Personal Information include, but are not limited to, the purposes listed below.

The following purposes related to the Personal Information of people supported:

- To identify and deliver the service or program which would be the best fit and most beneficial for the needs of the people supported.
- For planning, developing, evaluating, monitoring, and delivering a treatment plan, programs, services, and activities.
- To improve or maintain the quality of care or treatment.
- To improve or maintain the quality of programs or services.
- To assess progress and provide updates.

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- For risk and error management.
- To educate third parties with whom Aptus contracts with to provide programs and services
- To comply with the requirements of *Quality Assurance Measures* regulation (O Reg 299/10) concerning service records under the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008*.
- For any other purpose which the law permits or requires information to be used, collected, or disclosed by Aptus.

The following purposes related to the relatives/contacts of people supported:

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

The following purposes related to marketing and fundraising:

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

Collection of Personal Information:

Aptus frequently needs to collect Personal Information from or about People Supported or other people receiving services for a variety of operational purposes (including to provide services to such people and to maintain and evaluate Aptus' operations), and from third parties for fund raising purposes. Aptus also occasionally collects Personal Information in order to comply with legislation or other lawful authority. Aptus will take steps reasonable in the circumstances to

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ensure that Personal Information is not collected except in accordance with this Policy.

Personal Information is generally collected directly from the individual affected (or their authorized substitute decision maker). However, Personal Information may be collected indirectly where one of the following applies:

- (1) The collection is with the consent of the individual or their authorized decision maker;
- (2) The information is Personal Health Information, and both of the following criteria apply:
 - a. Its collection is reasonably necessary for providing health care or assisting in providing health care to the individual; and
 - b. It is not reasonably possible to collect directly from the individual in a timely manner or in a way that is reasonably reliable as accurate or complete; or
- (3) As otherwise permitted or authorized by legislation.

Use and Disclosure of Personal Information:

Once Aptus has collected Personal Information, it shall only use or disclose such information for the following reasons:

- For the purpose for which the information was collected or created and for all the functions reasonably necessary for carrying out that purpose (subject to any limitations the person consenting places on its use).
- For the following operational purposes:
 - For planning or delivering programs or services Aptus provides or funds in whole or part;
 - For the purpose of risk management, error management, or for the purpose of activities to improve or maintain the quality of Aptus supports and services; or
 - For educating Aptus staff to provide Health Care services and supports as part of their duties.
- Any other purposes permitted or required by law (whether by legislation or otherwise) and in accordance with this Policy.

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Where Aptus needs to use Personal Information for a purpose beyond that for which the Personal Information was originally collected and no exemption to the need for consent applies, Aptus will seek new Consent for that purpose for the purposes for which it was collected.

If Aptus needs to use or disclose Personal Information in its possession for a purpose it does not have consent for and which is outside of the scope of Aptus' information practices as described herein or in Aptus' General Privacy Statement, Aptus will:

- Inform the individual of the use and disclosure at the first reasonable opportunity, unless there is no right of access or Aptus is otherwise legally prohibited from informing the individual; and
- Make a note of the use and disclosure and ensure that this note is recorded with other records of Personal Information about the individual in Aptus' control or custody.

Safeguarding Personal Information:

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

Aptus implements safeguards designed to ensure reasonable steps are taken to protect Personal Information against loss, theft, and unauthorized use, access, disclosure, modification, or duplication. Such safeguards include but are not limited to the following:

(i) Storage

The following procedures will be followed to secure storage of Personal Information. This list is not exhaustive.

- Desks and storage containing Personal Information will be locked and in a secure location whenever the area is left unsupervised and overnight;
- Personal Information must never be viewable by visitors or the People We Support to whom the information does not relate;
- Office doors should be locked before leaving work for the day;
- Access to Personal Information will be restricted to those individuals who require access, such as, but not limited to, those persons directly involved in our client's care;
- Financial information must be locked in a secure location at all times;
- A password protected screensaver should be triggered on computers after 15 minutes of inactivity;

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- Personal Information collected, stored, and disclosed electronically will be protected through the implementation of firewalls, encryption, passwords, and other appropriate security measures; and
- Personal Information that qualifies as Personal Health Information stored on any mobile devices (e.g., laptops, memory sticks, PDAs) shall be securely encrypted to limit access to authorized individuals, and no one else.

(ii) Confidentiality

The following procedures will be followed to maintain confidentiality of Personal Information. This list is not exhaustive.

- Where Personal Information must be transferred internally or externally by Aptus, it will be transferred in a secure manner;
- When Personal Information is transferred to third parties, Aptus will seek to ensure that, when the purpose for the disclosure is achieved, the Personal Information is securely returned to Aptus and is otherwise not retained by the third party unless Aptus advises otherwise in writing. This may be accomplished by contractual obligations or other means.
- Personal Information shall not be left in unattended vehicles, made visible on public transportation, or insecurely handled in public establishments or areas;
- Personal Information shall only be sent via facsimile where it has been confirmed that the information will be received promptly and the receiving party's fax machine is in a secure location;
- If Personal Information is discussed at a Board of Directors or staff meetings and minutes are taken, such minutes will be subject to appropriate safeguards as noted above;
- Aptus' fax machine will be placed in a secure location; and
- Discretion and sensitivity will be used during verbal discussions involving Personal Information to seek to ensure that such information is not overheard by unauthorized persons.
- Aptus will secure staff compliance with the Agency's confidentiality and privacy obligations through policies as well as contracts and other legally binding instruments, including for employees during and after the course of their employment.

(iii) Disposal

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The following procedures will be followed regarding disposal of Personal Information. This list is not exhaustive.

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

(iv) Retention

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

For clarity, Aptus will retain any information subject to a request for access until the individual has exhausted any legal recourse in respect of their right to the information.

For further clarity, unless otherwise required by law, a Service Record shall be kept for a minimum period of seven (7) years. Service records include the following information:

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

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

Aptus will otherwise comply with any mandatory retention timelines imposed by law.

The decision that Aptus is required to retain Personal Information in a manner beyond the general requirements of this Policy shall be made by the Chief Privacy Officer on a case by case basis.

(v) Loss, Theft, and Unauthorized Access to Information

In the event that Personal Information is subject to loss, theft, or unauthorized use or disclosure, the Agency shall take all reasonable steps to prevent any further loss, theft, or unauthorized use or

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disclosure of an individual’s Personal Information. This may include contacting law enforcement in appropriate circumstances. The Agency will also make and keep records of any breaches of this Policy that occur.

In addition, the Agency shall notify the individual who the Personal Information refers to at the first opportunity of the loss, theft, or unauthorized use or disclosure. If the Personal Information is or contains Personal Health Information, this notice shall also inform the individual that they are entitled to make a complaint to the Ontario Privacy Commissioner under Part VI of *PHIPA*.

In addition, Aptus shall itself provide notice to the Ontario Privacy Commissioner in any of the following circumstances involving Personal Health Information:

- Aptus has reasonable grounds to believe that Personal Health Information in its custody and control was used or disclosed without authority by a person who knew or ought to have known that they were using or disclosing the information without authority;
- Aptus has reasonable grounds to believe that Personal Health Information in its custody or control was stolen;
- Aptus has reasonable grounds to believe that, after an initial loss or unauthorized use or disclosure of Personal Health Information, the Personal Health Information was or will be further used or disclosed without authority;
- The loss or authorized use or disclosure of the Personal Health Information is part of a pattern of similar losses, unauthorized uses or disclosures of Personal Health Information in Aptus’ custody or control;
- Aptus is required to report the loss, theft, or unauthorized use or disclosure of Personal Health Information to a professional regulatory college; or
- Aptus determines that the loss, theft, or unauthorized use or disclosure of Personal Health Information is significant as defined under *PHIPA*.

Accuracy:

Aptus recognizes that the importance of Personal Information being accurate and up-to-date. Aptus shall take reasonable steps to ensure that the information is as accurate, complete, and up-to-date as possible for the purpose for which it is collected, used, or disclosed.

Aptus recognizes that the need to be accurate is particularly important where Personal Information

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is used to make a decision about an individual or when information will be disclosed to a third party. When disclosing Personal Information, Aptus shall:

- Seek to ensure the information is as accurate, complete, and updated as is necessary for the purposes of disclosure as known to Aptus at the time of disclosure; and
- Clearly set out the limitations, if any, on the accuracy, completeness, or up-to-date character of the information.

Access and Correction of Information:

(a) Right of Access

Individuals can request access to their Personal Information by contacting the Chief Privacy Officer in writing. The request should have sufficient detail to identify and locate the record with reasonable efforts by Aptus. Aptus will offer assistance in reformulating a request that does not offer sufficient detail. Upon receiving a request for Personal Information, Aptus will take reasonable steps to confirm the identity of the person making the request.

Aptus may not be able to provide access to Personal Information in certain circumstances permitted or required by law, including but not limited to the following:

- Information that is the subject of any legal privileges;
- When the information would reveal the Personal Information of another individual; or
- When granting access would likely result in a risk of serious harm to the treatment or recovery of the individual or a risk of serious bodily harm to the individual or another person.

Where it is reasonably possible to sever Personal Information that can be disclosed from portions of records that cannot be, Aptus will provide those parts of the record.

Aptus may refuse a request for information where Aptus has reasonable grounds to believe that the request is frivolous, vexatious, or made in bad faith.

(b) Timelines for Responding to Requests for Access

Where Aptus receives a request for access to personal information, it will provide a response as soon as possible, and no later than 30 days after the request. However, Aptus may extend the timeline with notice by up to another 30 days in the following circumstances:

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- If meeting the time limit would interfere with Aptus’ operations because the information requested consists of numerous pieces of information or locating the information would necessitate a lengthy search; or
- If the time required to undertake the consultations necessary to reply to the request within 30 days after receiving it would make it not reasonably practical to reply within that time.

However, Aptus shall respond to the request in a shorter timeline than normal (and on a timeline proposed by the individual) if:

- The individual provides evidence reasonably satisfactory to Aptus that the individual requires access to the requested record on an urgent basis within that time period; and
- Aptus is reasonably able to give the required response within that time period.

(c) Possible Responses to an Access Request

Where a request for access to Personal Information is granted, Aptus will make the Personal Information available for examination by the individual and, on request, provide a copy (in a digital format if requested) and, if reasonably practical, an explanation of any term, code, or abbreviation used in the record. Note that a per page charge will apply for copying/scanning files.

Where requested information cannot be found after a reasonable search by Aptus, Aptus will give written notice to the individual stating that that the record does not exist, cannot be found, or is not a record containing their Personal Information (as the case may be).

If Aptus must deny the request for access in whole or in part, Aptus will provide written notice of this and state the reason for the refusal (unless it is limited from providing reasons by legislation such as *PHIPA*). If the information is Personal Health Information, Aptus will include in the notice that the individual can make a complaint to the Ontario Privacy Commissioner under Part VI of *PHIPA*.

(d) Requests for Correction

Following an access request, an individual can challenge the accuracy or completeness of their Personal Information by making a correction request in writing to Aptus’ Chief Privacy Officer.

Aptus will respond to a request for correction as soon as possible and no later than 30 days after receiving the request. However, Aptus may extend this timeline by another 30 days on notice to

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the individual if it responding to the request either would reasonably interfere with Aptus’ activities or if it is not reasonably practical to complete the necessary consultations to reply in that time.

Aptus may provide the following responses to the request for correction:

- Aptus shall grant the request for a correction if the individual demonstrates, to Aptus’ satisfaction, that the record is incomplete or inaccurate for the purposes Aptus uses the information for and if the individual gives Aptus the information necessary to correct the record. An exception to this is if Aptus did not create the original record and does not have sufficient knowledge, expertise, or authority to correct the record, or if the record consists of a professional opinion or observation that Aptus has made in good faith about the individual. Any correction of Personal Health Information will follow the procedure outlined in s. 55(10) of *PHIPA*.
- Aptus may refuse to correct the information in certain circumstances. If this is the case, Aptus will provide written notice to the individual stating the reasons for the refusal and inform the individual of the rights set out in s. 55(11) of *PHIPA* (including the right to prepare a concise statement of disagreement to be attached to the record, and a right to complain to the Ontario Privacy Commissioner).

Where Greater Obligations Exist

Where, in a specific circumstance, greater obligations exist in law for the Agency in respect of any Personal Information than are outlined within this Policy, the Agency shall comply with such greater legal obligations.

Questions and Complaints

If you have any questions about this Policy, or wish to make a complaint to Aptus about a matter related to this Policy, please contact the Chief Privacy Officer at cperera@aptustc.com.