

Personal Health Information Act: Questions & Answers for Custodians

This overview is presented for the convenience of reference only. Nothing in this overview should be construed as legal advice. You should consult the Act and your own solicitors for all purposes of interpretation.

What is the *Personal Health Information Act*?

The *Personal Health Information Act* is a provincial law that governs the collection, use and disclosure of personal health information. It also gives individuals the right to access and request correction of their own health information.

Why is the *Personal Health Information Act* needed?

The *Personal Health Information Act* applies to all personal health information held by custodians regardless of the format of the information, or whether it is held in the public or private system. Without this Act, personal health information in this province would be subject to different legislation depending on the setting. The federal *Personal Information Protection and Electronic Documents Act* (PIPEDA) currently regulates private practitioners while public bodies, such as regional health authorities, are subject to the provincial legislation, *Access to Information and Protection of Privacy Act* (ATIPPA).

When will the Act become law?

The *Personal Health Information Act* is expected to be proclaimed in early 2010. Prior to proclamation, resources will be developed and shared with custodians. Work is currently underway for the development of these resources.

Who does the Act affect?

The *Personal Health Information Act* affects everyone including custodians who have custody or control of personal health information, their employees, agents, volunteers, and individuals with practice privileges within the organization, as well as the general public.

Who are Custodians?

Custodians are defined in the *Personal Health Information Act* as a person having custody or control of personal health information. Included in this list of custodians are the following:

- Regional health authorities (RHA);
- A board, council, committee, commission, corporation or agency that is established by the RHA;
- A department created by the *Executive Council Act*;
- The Minister responsible for the Act;
- A health care professional;
- A health care provider;

- A person who operates a health care facility, pharmacy, ambulance service or a centre, program or service for community or mental health;
- The Provincial Public Health Laboratory;
- The Centre for Health Information
- Memorial University's Faculty of Medicine, School of Nursing, School of Pharmacy and School of Human Kinetics and Recreation;
- The Centre for Nursing Studies;
- Western Regional School of Nursing;
- A person who under law obtains custody or control of health records as a result of bankruptcy or insolvency;
- A rights advisor under the *Mental Health Care and Treatment Act*;
- The Workplace Health, Safety and Compensation Commission; and
- A person designated as a custodian in the regulations.

The Act is available on the Government of Newfoundland and Labrador website at <http://www.assembly.nl.ca/legislation/sr/statutes/p07-01.htm>

For more information on the *Personal Health Information Act*, contact the Department of Health and Community Services at 729-7007.