



At a Glance

Health Information Act

The *Health Information Act* (the *HIA*) gives individuals a right of access to their PHI (subject to limited exceptions), the right to request a correction to their PHI, and oversight of compliance by the Information and Privacy Commissioner. It also sets out the rules for the collection, use and disclosure of PHI by 'custodians'. Custodians are organizations or people who provide health care or plan and manage the health care system. Most custodians are probably already following similar rules to the rules set out in the *HIA*, based upon professional and health care facility standards.

The word 'individual' is used here to include reference to persons who are authorized to exercise rights on behalf of an individual patient. Examples include a parent on behalf of a child, a guardian or trustee on behalf of an incompetent patient and a personal representative on behalf of a deceased individual.

Acronym Alert:

HIA – Health
Information Act
PHI – personal health
information

General Rules

- Custodians must safeguard the PHI they hold.
- Only disclose what is needed to do the job, no more.
- Provide anonymous information whenever possible.
- Only provide PHI to those with a need to know.

Collection of PHI

- Collect only what is needed to provide care.
- Collect directly from the individual whenever possible.

Individual Access to Their Own PHI

- Individuals have a legal right to see or obtain copies of their PHI without being asked why.
- Custodians have a duty to help individuals with their requests.
- If asked, custodians must assist individuals in reviewing their PHI, eg. explain abbreviations and terms.
- In some circumstances, custodians can refuse access, for example, when access may cause harm.
- Custodians have to respond to access requests within 30 days. In some circumstances, this time can be extended.
- If an individual disagrees with a custodian's decision, the individual can appeal to the Information and Privacy Commissioner.
- Custodians can charge a fee for providing copies of PHI, according to the fee schedule in the regulations.

Corrections to PHI

- Individuals have a right to ask for a correction to their PHI.
- Custodians can refuse to correct, for example, where the correction involves a professional opinion or observation.
- If the custodian does not correct the PHI, the individuals can add a statement of disagreement to their record.
- Individuals can ask the Information and Privacy Commissioner to review the custodian's decision.

Use of PHI

Custodians can use PHI for purposes such as the following:

- Providing health care;
- For proceedings, if the PHI relates to the proceeding;
- Conducting research authorized by a Research Ethics Board;
- Educating agents of the custodian to provide health care;
- Complying with legislation;
- Obtaining payment for services; and
- Planning and resource allocation, health system management, public health surveillance, health policy development, or the delivery or administration of health care.

Disclosure of PHI

- Custodians can disclose to another an individual's PHI with consent, but consent may be refused or withdrawn, with limited exceptions.
- Custodians may only disclose the minimum amount of PHI to do the job, and shall not disclose PHI if other information will fulfill the same purpose.
- Custodians must keep a log of PHI it discloses without consent, including the name, date, purpose, and description of the PHI disclosed.
- Custodians must disclose PHI without consent
 - if required by law, e.g. courts and subpoenas;
 - to a person conducting an inspection or investigation authorized by law;
 - to the Minister of Health and Wellness, for health care management.
- Custodians can disclose PHI without consent for purposes such as the following:
 - for health care;
 - to auditors, subject to requirements;
 - to researchers, subject to requirements;
 - to family members in certain circumstances;
 - to prevent or reduce a risk of significant harm;
 - to another custodian, to prevent or detect fraud;
 - to the superintendent of a correctional facility to assist with health care or placement; and
 - for proceedings, if the PHI relates to the proceeding.

More Information

As in the past, custodians will be able to handle any issues under the *HIA* using common sense and professional standards. This document provides general information only, and is not advice. For more information about the *HIA*, check the PEI Health and Wellness website at <https://www.princeedwardisland.ca/en/information/health-and-wellness/guide-new-health-information-act> or the Office of the Information and Privacy Commissioner's website at www.oipc.pe.ca . The Office of the Information and Privacy Commissioner may also be contacted at (902) 368-4099.