



# **The Reporting and Management of Personal Information and Personal Health Information to Control and Combat Infectious Disease: An Analysis of the Canadian Statutory and Regulatory Framework**

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## Introduction

Over the past decades, it was thought that many infectious diseases were eradicated or brought under control. However, the last few years have seen the emergence of new infectious diseases and the re-emergence of diseases previously thought to have disappeared. This is due, in part, to globalization and the increased movement of persons and goods, which contributes to a rapid spread of disease.<sup>1</sup> Thus, in order to protect the public, several levels of government must share information on a national and international scale and capabilities must be developed to implement measures to combat or respond to disease.

Infectious disease surveillance is an essential tool in combating disease and protecting public health. It can help prevent the spread of a disease, thereby averting a health crisis. Surveillance is positioned between research activity and specific measures (i.e. quarantine and treatment) involving persons exposed to an infectious agent. It involves the tracking and forecasting of threats to health through the continuous collection of data and the integration, analysis and interpretation of such data into reports, advisories, alerts, and warnings disseminated to practitioners, health care institutions, governments and the general public. In contrast to the research context, the collection of data in a surveillance context is oriented toward action. It makes it possible not only detect emerging health risks, but, in addition, to monitor and evaluate progress.<sup>2</sup> Effective surveillance therefore requires that information be shared between various levels of government and that personal information be disclosed to health authorities.

This report discusses the legislation and case law governing the collection, retention, use and disclosure of personal information with a view to preventing and managing reportable infectious diseases. Our analysis and conclusions will be based on specific public health legislation and access to information and privacy legislation in each province and territory, having regard to the values and principles enunciated by the *Canadian Charter of Rights and Freedoms*, the *Quebec Charter of Human Rights and Freedoms* and the decisions of our courts.

### *Scope of research*

Our research covers statutes and regulations governing public health, health protection, access to information and privacy, and the protection of personal health information. We have also studied court decisions addressing the confidentiality of medical information and exceptions to confidentiality requirements, notably where

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1 National Advisory Committee on SARS and Public Health, *Learning from SARS: Renewal of Public Health in Canada* (Ottawa: Health Canada, 2003) at 15-17.

2 *Ibid.* at 93.

infectious diseases are involved. The research reveals a surprising shortage of reported decisions on the subject; in fact, it appears that Canadian courts have rarely considered the question. It should be noted that the decisions of privacy commissioners were not included in our analysis. Lastly, our research into the scholarly writing was not exhaustive.

This report deals with the confidentiality of personal information involving infectious diseases other than HIV/AIDS. As agreed, the report does not deal with the special case of persons in custody, or with municipal powers, interprovincial agreements, or internal policies regarding the transfer of personal information to public health departments. Nor does it discuss the power of health authorities to compel an infected person to obtain treatment, even though this is an important subject.

### *The structure of the discussion*

In the first part of this report, we briefly present the conceptual framework specific to the problem of handling personal information in connection with the management of infectious diseases. This is followed by an analysis of the legislative framework governing the confidentiality and disclosure of personal health information in the context of infectious diseases. This part is divided into three sections: a discussion of the privacy principle as enunciated in the *Canadian Charter of Rights and Freedoms* and the *Quebec Charter of human rights and freedoms* and interpreted by the courts; a descriptive analysis of the relevant provincial legislation; and a discussion of federal privacy laws. We will conclude with an analysis of the impact of the legislative framework on the communication of personal information between various levels of administration and government and the nation-wide management of infectious diseases.

## **I. The Management of Infectious Diseases and the Transfer of Personal Information to Public Health Authorities: Conceptual Framework**

Our report is based on a conceptual framework that is specific to issues that arise at different stages when one is handling personal information in order to manage infectious diseases. We believe that an analysis from this perspective will make it easier to identify, analyse and compare each province and territory's laws and regulations and determine their respective strengths and weaknesses. This will enable us to make general recommendations about harmonizing the protection of personal information in the management of infectious diseases throughout Canada.

### ***a) Collecting information about occurrences of infectious disease***

Public health authorities can obtain personal information in two ways: by securing a statement to the effect that a person has an infectious disease or by conducting an investigation. The statement can be made by an individual (a health care professional, a teacher or any other person) who is legally required to make a statement or who does so voluntarily. The investigation can follow a statement or can be launched on the initiative of the public health authorities. The information is generally obtained by a Medical Officer of Health or a local health board and then shared with the provincial health authorities. Collection necessarily involves the transfer of personal information, most of which is health information.

### ***b) Retention of information about occurrences of infectious disease***

Once the provincial health authorities have received the information, the retention method varies from province to province. Generally, the information ends up being centralized at the Ministry or Department of Health. In any event, the information must be stored in a way that protects the identity of its subjects.

### ***c) Using information for public health purposes***

The information can be used for the purposes for which it was collected. Generally, when information is used in furtherance of public health management objectives, it is used for statistical or research purposes, disclosed to local public health authorities, exchanged with other provinces or transmitted to the federal government in order to track and monitor infectious diseases.



***d) Retention and use of information by the federal government***

The federal Department of Health (Health Canada) has an important role to play in the field of public health. Among other things, it has a duty to protect the people of Canada against risks to health and the spread of disease and to cooperate with provincial authorities with a view to coordinating efforts for preserving and improving public health. It also has the power to investigate and research into public health and to collect, analyze, interpret, publish and distribute information relating to public health (*Department of Health Act*, subsection 4(2)). Thus, the provinces provide Health Canada with information regarding public health and the incidence of infectious diseases within their boundaries. This information may be personal information (that identifies the subjects), or it may be anonymous (that prevents identification of subjects) or statistical information. The Department of Health can use or communicate this information in connection with its public health protection functions.

## **II. The Management of Infectious Diseases and the Transfer of Personal information to Public Health authorities: An Analysis of Canadian Legislation**

In order to analyze the legislative framework in which personal information is communicated between different administrative and government bodies, we must examine two major types of legislation: public health legislation and legislation regarding the protection of personal information and access to information held by public bodies.

To understand the rules governing the communication of personal information, we must examine four major stages: collection, retention, use and exchange with external entities. Each of these stages is governed by a variety of rules contained in statutes and regulations.

For example, the collection of information may be governed by rules regarding access to documents held by public bodies if such a body holds personal information regarding a suspected carrier. However, if the requested information is held by a private entity, the rules regarding the protection of personal information in the private sector must be applied. On the other hand, if the province has enacted a personal health information statute, that statute could prevail over the others. Lastly, the provisions in public health statutes that grant investigative powers, or require reporting to the public health authorities, permit the disclosure of personal information to the public health authorities even without the consent of the person concerned.

Finally, regardless of the circumstances, the processes for communicating personal information must comply with the privacy guarantees in the *Canadian Charter of Rights and Freedoms* and the *Quebec Charter of Human Rights and Freedoms*.

### **A. The Canadian Charter of Rights and Freedoms and the Charter of Human Rights and Freedoms**

Canadian courts have clearly established that sections 7 and 8 of the *Canadian Charter of Rights and Freedoms* protect the right to privacy under certain circumstances. The provisions guarantee, respectively, the “right to life, liberty and the security of the person” and the right to be “secure against unreasonable search or seizure.” The Supreme Court of Canada has held that privacy, being tied to the dignity and value of each person, is an essential aspect of the right to liberty in a free and democratic society.<sup>3</sup> The right to

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3 *R. v. O'Connor*, [1995] 4 S.C.R. 415 at para. 113. In *O'Connor*, a man accused of sexual assault attempted to gain access to the therapy records of the alleged victim, claiming that this access was necessary in order to make full answer and defence. The counselling centre refused to disclose its client’s records and the accused applied for a court order. This brought the client/alleged victim’s

the security of the person includes the right to psychological integrity. This right protects an individual against the non-consensual disclosure of personal information where the individual would wish to protect its confidentiality and has a reasonable expectation of privacy therein.<sup>4</sup> Section 8 also protects the confidentiality of documents and records containing “a biographical core of personal information which individuals in a free and democratic society would wish to maintain and control from dissemination to the state. This would include information which tends to reveal intimate details of the lifestyle and personal choices of the individual.”<sup>5</sup> Information regarding a person’s health and the medical services he has obtained come within this core of protected information.<sup>6</sup>

These rights are not absolute, however. Section 7 provides that the state may infringe the right to liberty and the security of the person if the deprivation is “in accordance with the principles of fundamental justice.” Section 8 only offers security against unreasonable searches and seizures. A search or seizure that is authorized by a law that is not unreasonable *per se*, if not carried out in an unreasonable manner, does not contravene the *Charter*.<sup>7</sup> In addition, section 1 provides that the rights and freedoms set out in the *Charter* are subject to “reasonable limits prescribed by law” which can be “demonstrably justified in a free and democratic society.” There must be a reasonable expectation that a right, in this instance privacy, is a constitutional imperative: “[A]n assessment must be made as to whether in a particular situation the public’s interest in being left alone by government must give way to the government’s interest in intruding on the individual’s privacy in order to advance its goals, notably those of law enforcement.”<sup>8</sup>

In the public health context, the right to privacy and to the confidentiality of personal health information may need to yield to the public interest. For example, in

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right to privacy into direct conflict with the accused’s right to make full answer and defence. On the subject of this decision and on those that followed it, see also C.H.H. McNairn & A.K. Scott, *Privacy Law in Canada* (Scarborough: Butterworths, 2001) at 35; M. Marshall & B. von Tigerstrom, “Health Information” in J. Downie, T. Caulfield & C. Flood, dirs., *Canadian Health Law and Policy*, 2nd ed. (Toronto: Butterworths, 2002) 157 at 161 *et seq.*

4 *R. v. Mills*, [1999] 3 S.C.R. 668 at paras. 82-85. The facts in *Mills* were almost identical to those in *R. v. O’Connor*.

5 *R. v. Plant*, [1993] 3 S.C.R. 281, cited in *R. v. O’Connor*, *supra* note 1.

6 *R. v. Dyment*, [1988] 2 S.C.R. 417. In *Dyment*, the accused was driving while under the influence of alcohol. He was involved in an accident and brought to a hospital for treatment. The police seized a blood sample taken by the attending physician and charged Mr. Dyment with impaired driving. The Supreme Court of Canada held that the evidence obtained from the sample was inadmissible because it was the fruit of an unreasonable search.

7 *R. v. Collins*, [1987] 1 S.C.R. 417 at 427-29. This decision dealt with a seizure of drugs that led to charges for possession for the purpose of trafficking. The accused argued that the seizure was unreasonable and therefore violated section 8.

8 *Hunter v. Southam*, [1984] 2 S.C.R. 145. Combines investigation officers entered the respondent’s offices and seized documents and other items. The respondent applied to the court for an interlocutory injunction stopping the search on the basis that the relevant provisions of the *Combines Investigation Act* contravened section 8 of the *Canadian Charter of Rights and Freedoms*.

*Canadian AIDS Society v. Ontario*,<sup>9</sup> the Ontario Court of Appeal held that the provisions of the *Health Protection and Promotion Act* requiring the communication of the names of HIV-positive donors to the public health authorities violated the right to the security of the person as guaranteed by the *Charter*. However, under the circumstances of the case, this infringement was in keeping with the principles of natural justice because the provisions struck a balance between the state's objective – protecting public health – and the donor's right to privacy. For everyone's benefit, more weight had to be given to the aim of protecting public health. Moreover, even if the donors had not consented to an analysis of their blood samples, the seizure of those samples was not unreasonable because the public interest outweighed the donors' right to privacy in this context.

While *Peters-Brown v. Regina District Health Board*<sup>10</sup> is not a *Charter* case, it also illustrates how the public interest can limit a patient's confidentiality rights. In *Peters-Brown*, the plaintiff sued the Regina Health Board and a hospital after information was disclosed regarding health services she had obtained, notably treatment for a Hepatitis B infection. Her name had been placed on a list of persons with respect to whom bodily fluid precautions should be taken. The hospital had posted this list in a non-public area of the hospital. However, someone copied it and displayed it at the plaintiff's workplace. The court held that the manner in which the list was posted constituted negligence and breach of contract, but that the distribution of the list to the laboratories and the hospital's emergency department was not tortious. The hospital staff was entitled to this information for its own protection on condition that they maintained its confidentiality. The employees' protection prevailed over the plaintiff's right to confidentiality; thus, the hospital had no duty to withhold the information from its staff.<sup>11</sup>

In Quebec, the *Charter of Human Rights and Freedoms* (hereinafter the Quebec *Charter*) states that everyone has the right to respect for his private life, to the non-disclosure of personal information and to the safeguard of his dignity and reputation (sections 4, 5 and 9). This protection is [TRANSLATION] “enshrined as a fundamental value in every field, without exception.”<sup>12</sup> It is subject only to such limits as are consistent with “a proper regard for democratic values, public order and the general well-

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9 (1995), 25 O.R. (3d) 388 (Ont. Gen Div.), aff'd (1996), 31 O.R. (3d) 798 (C.A.), leave to appeal to S.C.C. refused (1997), 43 C.R.R. (2d) 188n. Individuals had donated blood to the Red Cross in the 1980s. At the time, they were told that their donated blood would not be analysed for HIV. Ten years later, the Red Cross analysed the samples and found that certain donors were HIV positive and had not been informed of this fact. The Canadian AIDS Society applied to the court for a declaration that the provisions of the *Health Protection and Promotion Act* that required that the public health authorities be notified of the names of infected persons, did not apply under the circumstances, or, in the alternative, that they infringed sections 7 and 8 of the *Canadian Charter of Rights and Freedoms*.

10 [1995] S.J. No. 609 (Q.B.), online: QL (SJ).

11 *Ibid.* at para. 15.

12 *Québec (Commission des droits de la personne et des droits of the jeunesse) v. Magasins Wal-Mart Canada Inc.*, 2003 QCDTDP 87, where an employee filed a complaint with the Quebec's human and youth rights commission alleging that Wal-Mart had dismissed him from his inventory clerk position because of criminal offences that were in no way connected to the position, thereby contravening section 18.2 of the *Charter of Human Rights and Freedoms*.

being of the citizens of Québec” (Quebec *Charter*, s. 9.1). However, the right to the confidentiality of medical records is relative. A patient’s privacy interest can come into conflict with the public interest. If so, the courts have a duty to protect both interests and must therefore weigh them.<sup>13</sup> It is also important to note that the concept of public order contemplated in the Quebec *Charter* is [TRANSLATION] “indisputably a very broad concept that most likely includes the concepts of national security, public safety, health and public morals . . .”<sup>14</sup>

## **B. Provincial legislation**

In Part B, we will describe the laws and regulations in each province that govern the handling of personal infectious disease information. We will consider these tools under three themes: first, legislation and regulations regarding public safety and infectious disease control; second, personal information and privacy protection (PIP) legislation; and third, vital statistics legislation. The information will be presented from the standpoint of collection, investigation, retention and disclosure, and information-sharing, to the extent that the enactments address each of these themes.

### **1. Alberta**

#### **a) Public health legislation**

##### *Collection*

The *Public Health Act* requires health professionals, laboratory directors, teachers and persons in charge of an institution to notify the Medical Officer of Health or their regional health authority if they know or have reason to believe that a person under their care, custody, supervision or control is infected with a prescribed communicable disease (sections 22 *et seq.*). The same duty is incumbent on funeral directors (Bodies of Deceased Persons Regulation, s. 3(1)). Medical Officers of Health from the province’s

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13 *Frenette v. Metropolitan Life Insurance Co.*, [1992] 1 S.C.R. 647. The plaintiff purchased a life insurance policy from the defendant. In so doing, he signed a form giving his insurer access to his medical records for the purposes of risk assessment and loss analysis. The plaintiff died and his estate refused to give the insurer access to his medical records. The hospital also refused to disclose the records, so the insurer brought a motion for an order enjoining the hospital to release them. The Supreme Court of Canada held that the plaintiff had waived his right to the confidentiality of his medical records, both for the present and for the future, when he signed the authorization.

14 *Commission des droits de la personne v. Centre d’accueil Villa Plaisance*, T.D.P.Q. Gaspé, No.115-53-000001-94, 1995-11-12. In this employment gender discrimination complaint, the Centre d’accueil Villa-Plaisance had posted a job offer addressed only to men. Women tried unsuccessfully to apply and complained to Quebec’s human and youth rights commission.

regions then send this information to the Chief Medical Officer (section 28). It can be seen from the prescribed forms that the information transmitted is indeed personally identifiable: it includes the name, address, age, sex, etc. Where sexually transmitted diseases (STDs) are involved, the names of all persons with whom the person has had sexual contact (section 56(1)) will also be provided so that the Medical Officers of Health can notify them (section 56(3)).

### *Investigation*

The public health authorities also have investigative powers. Firstly, a Medical Officer of Health can request personal information regarding a suspected carrier of a communicable disease if the person frequents public places (section 19) or it is felt there is an emergency (section 19.1). The officer may enter a place without a warrant to conduct the investigation (section 30(1)). She may also ask for any information concerning a communicable disease, including the suspected source of the disease and the names and addresses of any persons who may have been exposed (section 31(2)) and can even require a person to submit to examinations in order to determine whether the person is infected.

### *Retention and disclosure*

Alberta is one of the few provinces that have a public health statute containing provisions that specifically address the confidentiality of personal information related to communicable diseases (sections 53 *et seq.*). The statute specifies that information held by the public health authorities is confidential and must not be disclosed in any manner that would be detrimental to the personal interest, reputation or privacy of the person (section 53(1)). The statute also provides that the Chief Medical Officer of Health may disclose personal information under specific circumstances, such as where the law so requires, where he or she believes that the disclosure will avert or minimize an imminent danger to the health or safety of a person or if the information is in statistical form and the person to whom it relates is not made identifiable (sections 53(4)(a), (a.1) and (c)). Disclosure is also permitted if it is in the public interest and the Minister of Health consents (section 53(5)).

### *Sharing of information*

The statute provides for the sharing of information within the province. If a Medical Officer of Health learns of a suspected case of communicable disease in a health region other than her own, she must notify the officer in the region concerned (section 25). The statute does not contemplate the sharing of information with the federal government or other provinces.

**b) *Personal information and privacy protection legislation***

The *Health Information Act* enunciates a set of rules to protect personal health information. However, the *Public Health Act* states that it prevails over any other enactment to the extent of any inconsistency (section 75). Since the *Public Health Act* certainly covers collection and even certain aspects of disclosure of personal information, the scope of the *Health Information Act* is limited. However, there are general and complementary provisions.

*Disclosure*

First of all, it should be noted that the *Health Information Act* does not limit the use or disclosure of non-identifiable health information (section 26, 32(1)). The Act authorizes the disclosure of personal health information if it is authorized or required under an enactment of Alberta or Canada (section 35(1)(p)), if it can avert or minimize an imminent danger to the health of another person (section 35(1)(m)), or if it is made to a custodian of health information within the province for the purposes of public health surveillance (sections 35(1)(a) and 27(2)) or for research. The transfer of information between different public health authorities within the province is also permitted, even without consent, by virtue of s. 47(1)(a).

*Retention*

The Act imposes numerous duties regarding the retention and management of personal information, notably the duty to use the information in the least identifiable manner possible, to collect only what is essential to carry out the intended purpose, and to protect the information adequately (sections 57, 58 and 60). Lastly, the holder of the information must develop and adopt information management policies and procedures and prepare a privacy impact assessment in relation to the subjects of the information.

**c) *Statistics legislation***

The *Vital Statistics Act* governs the collection and disclosure of information of documents pertaining to a person's civil status. The Act provides that a certificate of death must not disclose the cause of death unless the Minister or a judge so authorizes (section 30). However, the Director of Vital Statistics may collect and disclose personal information if he determines that it is necessary or in the public interest to do so (section 36).

**Summary:**

- The rules contained in the three statutes form a coherent whole.
- The *Public Health Act* contains specific provisions protecting personal information.
- While the *Public Health Act* provides for the interprovincial communication of information, it does not expressly authorize the exchange of information with the federal authorities or other provinces.

## 2. British Columbia

### a) *Public health legislation*

#### *Collection*

The *Health Act* and Health Act Communicable Diseases Regulation require physicians, householders and any other person to notify the Medical Officer of Health in their area if there is an actual or suspected case of a designated infectious disease (sections 80(1), 83(3) of the *Health Act*; s. 2 of the Health Act Communicable Diseases Regulation). The Regulation also imposes this duty on teachers, laboratory directors, hospital directors and funeral home directors (sections 2, 3 and 14). In addition, a Medical Officer of Health may direct a person to undergo examinations if it is suspected that he or she is infected (section 12 of the Health Act Communicable Diseases Regulation). The results of these examinations are confidential; they may be disclosed only to the public health authorities or a physician (section 12(6)). If a person *voluntarily* submits to an examination for an infectious disease and the disease must be reported to the health authorities, the information cannot be disclosed to anyone other than the Medical Officer of Health unless the person consents (section 6.1).

Local public health authorities send information regarding the incidence of infectious diseases in their region to the province's Chief Medical Officer of Health (section 5 of the Sanitary Regulations.) The information is identifiable; it includes the name, address, sex and age of the person.

The Minister of Health must conduct sanitary investigations and inquiries about the cause of disease, and especially of an epidemic (section 7(1)(d)).

#### *Retention and disclosure*

The Sanitary Regulations and the *Venereal Diseases Act* provide for the creation of a record of all infectious disease cases. However, only the *Venereal Diseases Act* contains rules governing the retention and use of the information. Information obtained by virtue of the administration of the Act, as well as laboratory reports, are confidential



and must only be disclosed in accordance with that statute or the *Marriage Act*<sup>15</sup> or by order of the Minister (section 12). The Act provides that public health personnel cannot be compelled to testify about this information in civil proceedings.

Interestingly, the *Health Act* specifically provides for the creation of a health status registry, but it provides that the registry does not have the power to collect information regarding infectious diseases (section 10).

***b) Personal information and privacy protection legislation***

*Disclosure*

The *Freedom of Information and Protection of Privacy Act* contains a few provisions regarding the confidentiality of personal information held by public bodies. A public body cannot disclose personal information to a third party if such disclosure would be an unreasonable invasion of the subject's privacy. However, when the purpose of disclosure is to promote public health and safety, the head of the public body who is assessing the request for the information must bear this purpose in mind (sections 22(2)(b) and 33(a)). In addition, disclosure is permitted if the subject consents, if compelling circumstances exist that affect anyone's health or safety, if disclosure is authorized or required by a provincial or federal law, if it is for research or statistical purposes (sections 22(4) and (33(a)) or if the disclosure is for the purpose for which it was obtained or compiled or for a use consistent with that purpose (section 33(c)).

Whether or not a request for access is made, the head of a public body must, without delay, disclose to the public, an affected group or an applicant, information about a risk of significant harm to the health or safety of the public or a group of people, or information the disclosure of which is clearly in the public interest (section 25(1)).

*Sharing of information*

It should also be noted that a public body may disclose personal information pursuant to a treaty or agreement that authorizes disclosure and was signed pursuant to an enactment of British Columbia or Canada.

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15 However, the current version of the *Marriage Act* contains no provisions concerning the disclosure of information regarding sexually transmitted diseases.

c) *Statistics legislation*

The *Statistics Act* provides that a provincial minister may sign an agreement with Statistics Canada for the transfer of personal information to that body. The transfer of information to a federal department other than Statistics Canada, or to the provinces, is contemplated only when the information is collected jointly and the transfer is governed by an agreement granting the respondent the right to object to the information sharing (section 12).

Under the *Vital Statistics Act*, no death certificate may disclose the cause of a person's death except on the authority of the deputy minister or on the order of a court (section 38). The chief executive officer may compile and disclose personal information if he or she considers it necessary and in the public interest (section 43). The *Vital Statistics Regulation* states that the director has the discretion to grant access to information he retains, notably to federal and provincial vital statistics authorities and various police forces (section 9).

**Summary:**

- The public health statute contains rules on the confidentiality of personal STD information. Rules applicable to other infectious diseases are mostly found in the *Privacy and Protection of Personal Information Act*.
- Public health and PIP legislation does not contemplate the exchange of personal information with the federal government or other provinces. However, provision is made for possible agreements with the federal government.

**3. Prince Edward Island**

a) *Public health legislation*

*Collection*

Like all other provinces, Prince Edward Island has enacted legislation and regulations that create duties to report infectious diseases. The *Public Health Act* and *School Act* require teachers and principals to notify a health officer if a pupil is suffering from or has been exposed to a communicable disease (*Public Health Act*, section 12; *School Act*, section 99). The *Notifiable and Communicable Diseases Regulation* creates a broader obligation: any person, including a physician or a person holding a responsible position in a public-contact setting (such as a school, child-care facility or a health-care institution) must notify a health officer of any known or suspected instance of a designated disease (sections 6-7 and 12).

### *Investigation*

As far as investigative powers are concerned, the Chief Health Officer has the power to enter, investigate and take samples from any place with or without the consent of the persons involved. He may also require that a suspected carrier of a designated disease submit to examinations (Notifiable and Communicable Diseases Regulations, section 2). The minister responsible for public health has the power to survey or inquire into the appearance of certain diseases. If the minister appoints a commissioner for this purpose, the commissioner has the powers conferred by the *Public Inquiries Act* (*Public Health Act*, section 3).

### *Retention and disclosure*

Section 22 of the *Public Health Act* provides that personal information obtained under the Act is confidential. It may be disclosed if the subject consents or if the Chief Health Officer directs that disclosure is in the interest of the person concerned or the public. It should be noted that the Act does not restrict the disclosure of statistical data or information that does not identify individuals and the treatment they are given. In addition, the Regulations provide for a family-related exception: the Chief Health Officer or another physician may give a person's family members information concerning her condition if she is suspected of having a communicable disease (Notifiable and Communicable Diseases Regulations, section 14.)

### *Sharing of information*

The Notifiable and Communicable Diseases Regulations expressly authorize the transfer of personal information between districts (when an infected person is moving: section 8) and from the province to the federal government. Specifically, it states that all reports of notifiable diseases must be compiled and submitted to the Chief Health Officer and to the appropriate agencies of the Government of Canada for purposes of national disease surveillance (section 9).

### **b) *Personal information and privacy protection legislation***

The *Freedom of Information and Protection of Privacy Act* provides that whether or not a request for access is made, the head of a public body must, without delay, disclose to the public, a group of affected people or an applicant, information about a risk of significant harm to public health or safety or any information that is clearly in the public interest (subsection 30(1)). If possible, concerned third parties and the Privacy Commissioner must be given prior notice (subsections 30(3) and 30(4)). The head of a public body may also disclose personal information concerning an individual if the individual consents, if the disclosure is authorized or required by a provincial or federal enactment or a treaty, for research or statistical purposes, for the purposes for which it

was obtained or if there are compelling circumstances affecting anyone's health or safety (sections 15 and 37). The Act also authorizes disclosure without consent where it could avert or minimize an imminent danger to the health or safety of a person (section 37).

The Act also states that the head of a public body must protect personal information by making security arrangements to prevent such risks as unauthorized access, collection, use, disclosure, disposal or destruction (section 35).

**c) *Statistics legislation***

Under the *Vital Statistics Act*, a death certificate may only disclose the cause of death if it is issued to a public officer who requires it for the use in the discharge of official duties, or to a person authorized by the Minister or a court (section 32). The head of a body can collect and disclose personal information to persons prescribed by regulation (section 36).

**Summary:**

- The confidentiality requirements in public health and PIP legislation refer to the notion of public interest.
- One exception to the confidentiality requirements permits disclosure of personal information to the family members of a carrier.
- The Regulation provides for the transfer of personal infectious disease information to the federal government but not to other provinces.

**4. Manitoba**

**a) *Public health legislation***

*Collection*

The Diseases and Dead Bodies Regulation stipulates that health professionals, and laboratory and hospital directors, must report instances of designated diseases to the province's communicable disease control authorities using personally identifiable information (sections 3 *et seq.*). The Medical Officer of Health then sends this information to the province's Director of Communicable Disease Control (section 19(2)).

*Investigation*

A Medical Officer of Health or the Director of Communicable Disease Control may require that person suspected of having a disease submit to a medical examination

(section 12 of the *Public Health Act*; s. 12(1) of the Regulation). The Chief Medical Officer of Health or the Minister's designate may require any person, organization, government department, government agency or other entity to report information, including personal or medical information about diseases and anything else the chief Medical Officer of Health or designated person considers reasonably necessary to permit an assessment to be made of the threat disease presents to public health (*Public Health Act*, s. 12.1). The Minister may also order an investigation into the cause of any communicable disease, in which case that person has all the powers of a commissioner appointed under the *Manitoba Evidence Act* (section 15 of the *Public Health Act*). In the event of an emergency, the powers of the Medical Officer of Health are increased: he may conduct inspections and examinations and may require persons to provide him with personal information and documents (sections 22.1 *et seq.*).

#### *Retention and disclosure*

Medical Officers of Health must keep accurate written records of infectious diseases (section 19 of the Regulation). However, there are no regulations concerning the retention and use of such records. Indeed, the only time the issue of confidentiality is addressed is in relation to personal information collected by public health authorities in connection with STDs (section 51 of the Regulation).

#### *Sharing Information*

The Minister may share information, particularly personal and medical information, with various intraprovincial bodies, the government of Canada, a province or territory. (*Public Health Act*, s. 12.2).

#### **b) *Personal information and privacy protection legislation***

Questions of confidentiality and disclosure of personal health information (including information regarding infectious diseases) held by health information trustees (including health professionals, public health authorities and the Department of Health) are governed by the *Personal Health Information Act*. The *Freedom of Information and Protection of Privacy Act* may also apply to information held by public bodies, but only to the extent that they offer better protection. It should be noted that the *Personal Health Information Act* does not apply to anonymous or statistical health information that does not permit individuals to be identified (section 3).

#### *Collection*

The Act states that trustees must collect only as much personal health information about an individual as is reasonably necessary to accomplish the purpose for which it is

collected (section 13(2) of the *Personal Health Information Act*). Additionally, when health information is collected directly from an individual, the trustee must inform the individual of the purpose for which the information is being gathered (section 15).

#### *Retention and disclosure*

Trustees must establish a written policy concerning the retention and destruction of personal health information that complies with the requirements of the Regulations (section 17). In addition, trustees must adopt safeguards that assure the confidentiality, security, and integrity of the information (section 18).

Trustees may not disclose personal health information without the consent of the individual the information is about (section 22(1)). However, the Act permits exceptions for health research projects approved under sections 24 and 25, for retention in a computerized medical information network and database for the purpose of the delivery, evaluation or monitoring of a program that relates to the provision of health care or to prevent or lessen a serious and immediate threat to public health or safety or the health or safety of an individual (section 22(2)). Disclosure is also warranted when required or authorized by a law or required by an arrangement or agreement (section 22(2)). In any event, a trustee must disclose information only to the extent the recipient needs to know the information (section 22(3)).

#### *c) Statistics legislation*

The *Vital Statistics Act* states that no death certificate may disclose the cause of death except on the authorization of the minister or a court (section 32). The director may compile and distribute personal information if he deems it necessary and in the public interest (section 38).

#### **Summary:**

- The *Public Health Act* contains specific provisions on the confidentiality of personal information involving STDs but not other infectious diseases.
- Manitoba is one of the few provinces with a personal health information statute. The statute permits disclosure of personal information without consent to protect public health.
- The *Public Health Act* specifically provides for information-sharing with the governments of Canada and other provinces.

## 5. New Brunswick

### a) *Public health legislation*

#### *Collection*

The *Public Health Act* requires health professionals, persons in charge of institutions, principals, day care centre directors and CEOs of regional health authorities to notify the Medical Officer of Health, or a person designated by the Minister of Health, of a communicable or notifiable disease (sections 27 *et seq.*). Actually, this duty extends to “any person” who has reasonable and probable grounds to believe that a health hazard exists (section 4). Other regulations impose a duty on people such as teachers, householders, etc., to notify (General Regulation – Health Act, sections 87, 94 and 97; General Regulation – Hospitals Act, section 19).

If a sexually transmitted disease is involved, the affected person must consult a physician (*Venereal Disease Act*, section 3). The medical practitioner’s report must include the person’s contacts (*Public Health Act*, section 31; *Venereal Disease Act*, section 7(1)). The attending physician must also report any instances in which an individual is neglecting to continue treatment for certain diseases: where the disease is an STD, the report must be submitted to the Director of the Division of Venereal Disease Control; where a communicable disease is involved, the report must be submitted to the Medical Officer of Health (*Public Health Act*, section 32, *Venereal Disease Act*, section 7).

#### *Investigation*

The Medical Officer of Health or the public health inspector may inspect premises, including a private dwelling, if the occupant consents, with a warrant, or in an emergency. He may make inspections and examinations, require records related to an examination, remove documents for the purposes of an inspection and require a person to provide a sample (*Public Health Act*, sections 43-44). The director, a Medical Officer of Health or a public health nurse may require a suspected STD carrier to submit to a medical examination (*Venereal Disease Act*, sections 10-11). The Medical Officer of Health may also require a suspected STD carrier to submit to a medical examination and provide a report on his health (*Public Health Act*, section 33).

#### *Retention and disclosure*

Information regarding individuals with communicable diseases, and their contacts, is confidential. Nonetheless, non-consensual disclosure is permitted where necessary for the administration of the *Public Health Act* and regulations, where required by law, if ordered by the minister to protect public health, or when made for research purposes

(sections 66 *et seq.*). Any information related to STDs is confidential (*Venereal Disease Act*, section 22).

#### *Sharing of information*

The Minister of Health may enter into agreements with the governments of Canada, the provinces or the territories for the protection of public health (*Public Health Act*, section 58).

#### **b) *Personal information protection legislation***

##### *Retention and disclosure*

In the event of an inconsistency, the provisions of the *Public Health Act* regarding the confidentiality of personal information prevail over the provisions of other statutes and regulations. (*Public Health Act*, section 3). The provisions of the *Protection of Personal Information Act* are similar to the provisions of the *Public Health Act* when it comes to the disclosure of personal information to protect public health (see sections 3.4, 3.6 and 3.7 of Schedule B). The *Protection of Personal Information Act* states that a public body that has personal information must implement confidentiality safeguards (Schedule A, sections 1 and 7).

#### **c) *Statistics legislation***

The *Vital Statistics Act* states that a death certificate must not disclose the cause of death except on the authority of the minister or a judge or on the request of a coroner, the administrator of a hospital facility where the deceased was cared for, or a health research organization (sections 39 and 39.1).

#### **Summary:**

- The *Public Health Act* contains specific provisions on the disclosure of personal information regarding the full range of communicable diseases. These prevail over all other legislation, including the *Protection of Personal Information Act*.
- The *Venereal Disease Act* expressly provides that personal information regarding STDs is confidential.
- The *Public Health Act* contemplates agreements with the federal government, other provinces and territories with a view to protecting public health.



## 6. Nova Scotia

### a) *Public health legislation*

#### *Collection*

The *Health Act* and the Communicable Diseases Regulations stipulate that physicians, teachers, laboratory directors, householders, persons attending a patient and persons in charge of a labour camp must notify the Medical Health Officer and the Board of Health of any instance of a communicable disease (including an STD) (sections 64 and 70(2) of the *Health Act*; ss. 2, 4, 6, 7 and 11 of the Regulations). The Medical Health Officer must establish a register of notifiable diseases (communicable diseases, including STDs) and transmit the information to the Department of Health (sections 9 and 10 of the Regulations.)

In addition, the *Health Act* provides that all physicians and responsible heads of institutions must maintain a record of all persons suffering from venereal disease coming under their treatment or supervision and then report to the Minister the name and address of every such person (section 92).

The Tuberculosis Control Regulations require physicians, superintendents of health care institutions and the Deputy Registrar General to report the names and addresses of tuberculosis cases to the Medical Health Officer (sections 3, 9 and 23). In addition, physicians and radiologists must provide the head of a health unit with the names, addresses and medical examination results of any person who has tuberculosis. The information is then sent to the Medical Officer of Health, who establishes a register of tuberculosis cases (*Health Act*, section 75; Tuberculosis Control Regulations, section 4).

#### *Investigation*

If a pupil is suspected of having a communicable disease, a Medical Health Officer has the power to inspect the pupil's dwelling, and, along with numerous other health-care professionals, to carry out a medical examination of the pupil (*Health Act*, sections 66 and 73). Where an individual may be the carrier of a communicable or sexually transmitted disease, the Medical Health Officer may require that the individual submit to an examination (*Health Act*, sections 76 and 93). Generally, the Deputy Minister of Health has the powers of a commissioner appointed under the *Public Inquiries Act*, including the power to visit any premises in the province and take evidence for investigative purposes (*Health Act*, section 4) The Provincial Epidemiologist may require that the Red Cross provide him with any information regarding donated blood; he also has access to all of a hospital's medical records (*Communicable Diseases Regulations*, section 12A).

### *Retention and disclosure*

The Communicable Diseases Regulations do not protect personal communicable disease information. On the contrary, information concerning the incidence of certain notifiable diseases may be disclosed by affixing a placard near the entrance of a carrier's house (Communicable Diseases Regulations, section 14). However, information related to sexually transmitted diseases is confidential (*Health Act*, section 96). In addition, access to the tuberculosis register is restricted to health authorities and the information must not be divulged except as necessary for the protection of the public (Tuberculosis Control Regulations, section 17).

### *Sharing of information*

Health legislation and regulations do not contemplate the exchange of personal information with the federal government or with the other provinces and territories.

## **b) *Personal information protection legislation***

The confidentiality provisions contained in public health legislation and regulations are incomplete. They must therefore be interpreted in conjunction with the provisions of the *Freedom of Information and Protection of Privacy Act*.

### *Collection*

Pursuant to that Act, personal information cannot be collected unless the collection is authorized by law or is necessary for an activity of a public body (section 24).

### *Retention and disclosure*

The disclosure of personal information is prohibited if it is an unreasonable invasion of privacy. In determining whether a disclosure would constitute an unreasonable invasion, the head of the public body must consider the fact that the disclosure could promote public health and safety. Thus, personal information may be disclosed if there is an emergency affecting a person's health or safety, if an enactment authorizes it, or for the purpose of statistical research or use (section 20). In addition, it can be used or disclosed where necessary to comply with a law or where there are compelling circumstances affecting a person's health or safety (sections 26-27). Use of information for public health needs is not specifically mentioned but comes within the aforementioned paragraphs. Furthermore, the head of a public body can always disclose to the public, to an affected group of people or to an applicant, information about a risk of significant harm to the health or safety of the public or information the disclosure of which is clearly in the public interest (section 31). The Act requires the heads of public

institutions to make appropriate arrangements to safeguard the confidentiality of personal information (section 24).

**c) *Statistics legislation***

Under the *Vital Statistics Act*, a death certificate may disclose the cause of death where the Minister of Business and Consumer Services or a judge so authorizes (section 37). The Registrar may compile and publish personal information if he deems it necessary and in the public interest (section 41).

**Summary:**

- The rules in the *Health Act* for intraprovincial information transfers are complex and based on several categories of illnesses and several types of intermediaries.
- The *Health Act* and Tuberculosis Control Regulations contain specific provisions regarding the confidentiality of personal information regarding STDs and tuberculosis only.
- The *Freedom of Information and Protection of Privacy Act* provides that public health agencies must protect the confidentiality of personal information, including information related to infectious diseases.
- There are no provisions regarding the sharing of information with the federal authorities or the provinces.

**7. Ontario**

**a) *Public health legislation***

*Collection*

The *Health Promotion and Protection Act* provides that health professionals, hospital directors, institution superintendents, school principals, laboratory operators and persons in medical charge of institutions must report cases of reportable or communicable diseases (these terms are detailed in regulations) to the Medical Officer of Health (sections 25 *et seq.*). The information transmitted is personally identifiable (Reports, section 1). An attending physician must also notify the Medical Officer of Health if an individual is neglecting treatment for a communicable disease (section 34). The Medical Officer of Health then provides a report to the Ministry of Health regarding reportable diseases (section 31).

### *Investigation*

The Medical Officer of Health may require a suspected carrier to submit to a medical examination and deliver a report on his health (section 22). The officer, anyone acting under his direction, the health inspector and an inspector appointed by the Minister may enter any premises, except a private dwelling when the occupant does not consent. The same persons may conduct examinations, investigations and tests and take samples (section 41). In addition, the Minister may delegate the power to investigate the causes of any disease or mortality in the province, and the delegate has the powers of a commission under the *Public Inquiries Act* (section 78). The Minister may also investigate a situation that poses a risk to the health of any persons, in which case he or she has the powers of a board of health or a Medical Officer of Health (section 86). The board of health must provide the Minister with any information he or she requests (section 86.2).

### *Retention and disclosure*

Personal infectious disease information is confidential. However, such information can be disclosed for the purposes of public health administration and in connection with the administration of the *Health Protection and Promotion Act* and the regulations thereunder (section 39). A Medical Officer of Health may transmit to another Medical Officer of Health or public health official information regarding a person who has a reportable or communicable disease (sections 32 and 34). The information disclosed will be identifiable only where necessary for the purposes of the Act or the administration of a program or where authorized by the *Freedom of Information and Protection of Privacy Act* or the *Municipal Freedom of Information and Protection of Privacy Act* (section 91.1).

### **b) *Personal information protection legislation***

The *Freedom of Information and Protection of Privacy Act* and the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA) regulate the management of personal information held by public bodies. When managing infectious diseases, one must, of course, refer to the more specific provisions of the *Health Protection and Promotion Act*. Nonetheless, certain complementary provisions regarding the protection of personal information are relevant.

### *Collection*

The collection of personal information must be authorized expressly by law or necessary to carry out an activity authorized by law. The concerned person must be informed of the purposes for which the information will be used unless the Minister exempts the person in charge from that duty (sections 38-39 of the *Freedom of Information and Protection of Privacy Act*; sections 28-29 of the MFIPPA).

### *Retention and disclosure*

Personal information can be used or disclosed to an employee of an institution in the performance of her duties; where there are compelling circumstances affecting the health or safety of a person and a notice of the disclosure is mailed; when authorized by a provincial or federal law; or for research purposes (sections 41-42; sections 31-32 of the MFIPPA). In addition, the head must always provide the public, or a group of affected persons, with any information regarding a serious danger to their health or safety. She must, to the extent possible, give the persons concerned advance notice of the disclosure (section 11; section 5 of the MFIPPA).

Bill 31, the *Personal Health Information Protection Act, 2003*, establishes rules for the collection, use and disclosure of personal health information. The rules are similar to ones already in force. If passed, the Act would prevail over any other inconsistent statutory provision unless there is a specific provision to the contrary (section 7). Subject to exceptions, the *Freedom of Information and Protection of Privacy Act* and the MFIPPA would not apply to personal health information. These exceptions include a provision requiring the disclosure of information concerning a serious danger to health or safety (section 8). The duty to take reasonable measures to safeguard the confidentiality of the information is clearly established (sections 12-13).

### *Sharing of information*

The *Health Protection and Promotion Act* does not contemplate the transfer of personal communicable disease information to the federal government and to other provinces and territories. However, under Bill 31, public health authorities may disclose personal information to a federal, provincial or territorial public health authority if the disclosure seeks to achieve an objective that is essentially similar to an objective of the *Health Protection and Promotion Act* (sections 38 and 48).

### **c) *Statistics legislation***

The *Vital Statistics Act* provides that no death certificate may disclose the cause of death unless authorized by the Registrar General or a court order (sections 43 and 45). The Registrar General may also compile and disclose personal information if he deems it necessary and in the public interest (section 3).

**Summary:**

- The *Health Protection and Promotion Act* contains specific provisions on the confidentiality of personal information and refers to personal information protection legislation when addressing the disclosure of personal information.
- Personal information protection legislation contains specific provisions regarding public health and the notion of public interest.
- There is no provision regarding the sharing of information with the federal authorities or the provinces. However, Bill 31 containing the *Personal Health Information Protection Act* expressly provides for the disclosure of personal information outside Ontario when public health is involved.

**8. Quebec****a) Public health legislation**

The *Public Health Act* emphasizes the notion of health monitoring (sections 2 and 4). The Minister of Health and public health directors must establish a plan for the ongoing surveillance of the health status of the population. This surveillance plan must specify the purposes and objects of the surveillance, the personal or non-personal information it will be necessary to collect and the sources of information. The plan must be approved by a public health ethics committee, and where the data are protected by the *Act respecting access to documents held by public bodies and the protection of personal information*, it must be approved by the Commission d'accès à l'information, Quebec's access to information commission (*Public Health Act*, sections 33 *et seq.*).

*Collection*

Under the *Public Health Act*, the Minister and the public health directors may require physicians, public or private medical laboratories, health and social services institutions, any government department or any body to provide them with the information necessary for a surveillance plan, in a form that does not allow the persons to whom the information relates to be identified (section 38). He may also establish systems for the collection of personal information (section 47) and registries in which personal information on certain health services or health care received by the population is recorded. Information can be recorded and accessed without the consent of the persons concerned if their refusal endangers the health of others. Departments, government bodies, municipalities, health care professionals, heads of health and social services institutions, must report to the threats to public health (other than threats posed by a sexually transmitted agent) to a public health director. The report must not contain personal information unless the public health authority requires it (sections 92 *et seq.*). However, the *Minister's regulation under the Public Health Act* requires physicians and laboratory directors to report designated infectious diseases to the director of public

health of their territory if they become aware of them. The information they must report is identifiable and includes the patient's name, sex, age, address, telephone number and health insurance number (sections 1-7).

### *Investigation*

A director of public health may inspect premises and request personal information. If she has a warrant, she may inspect a private dwelling and require a suspected carrier to submit to a medical examination and provide samples of bodily substances (*Public Health Act*, sections 100 *et seq.*). In a health emergency, the personal information required by the Minister must be provided without delay or further formality (section 123). Generally, the public health authorities have the powers of a commissioner appointed under the *Act respecting public inquiry commissions* (section 135).

### *Retention and disclosure*

The regional council and regional boards must protect the confidentiality of information held by the public health authorities, and anyone who has access to that information must sign a confidentiality agreement (*Public Health Act*, section 131). In addition, the rules for access to the information are those found in sections 17 through 28 of the *Act respecting health services and social services*, with the necessary adjustments. The information can be disclosed by order of the court or a Coroner, with the consent of the person, to a public health director as part of an investigation he has initiated or if a threat to public health is likely to affect the territory of that director's region or to a government department, a municipality, a body, a health and social services institution, the national director of public health or the Minister in the performance of their duties (*Public Health Act*, section 132). In addition, the national director of public health may authorize the disclosure of personal information if the health of the population is threatened and the circumstances require such disclosure to protect the health of the population.

### *Sharing of information*

The national director of public health may communicate personal information to a health authority outside Quebec if the communication is necessary to protect the health of that authority's population or forms part of the stipulations of an agreement with that health authority (*Public Health Act*, section 133).

## **b) *Personal information protection legislation***

Quebec has several applicable statutes: the *Act respecting access to documents held by public bodies and the protection of personal information*, the *Act respecting the*

*protection of personal information in the private sector* and the *Act respecting health services and social services*. In addition, certain general provisions of the *Civil Code of Québec* (C.C.Q.) apply.

The general rule is that no one may invade the privacy of a person without the consent of that person unless authorized by law (art. 35 C.C.Q.). Keeping a person's private life under observation by any means may constitute an invasion of privacy (art. 36 C.C.Q.). The legislator must therefore use very clear language when authorizing public service authorities to do so. In addition, anyone who creates a record regarding another person may gather only such information as is relevant to the stated purpose of the file and, unless authorized by law, may not communicate or use the information without the consent of the person concerned (art. 37 C.C.Q.).

If the information is being collected in the private sector, it may be communicated to any person, without consent, if disclosure is necessary under the law, to a public body whose duties or functions require it to obtain such information, to a person to whom the information must be communicated by reason of the urgency of a situation that threatens the life, health or safety of the person concerned, or for research or statistical purposes (*Act respecting the protection of personal information in the private sector*, section 18). Naturally, the *Public Health Act* requires such disclosure.

If the information is collected in the public sector, two statutes apply: the *Act respecting access to documents held by public bodies and the protection of personal information* and the *Act respecting health services and social services*. The latter provides that, by way of exception to the general rule that a medical file is confidential, it may be disclosed where required by the *Public Health Act* (section 19). Generally, a body may communicate "nominative" (personally identifiable) information where necessary for the administration of a Quebec enactment. Nominative information may also be communicated to a public body if it requires such information to perform its duties. It may also be disclosed to a body or a person where exceptional circumstances justify doing so, with the approval of the Commission d'accès à l'information or the government (*Act respecting access to documents held by public bodies and the protection of personal information*, sections 67 *et seq.*).



**Summary:**

- The approach leans heavily toward the protection of personal information and differs from the approach that the other provinces have adopted.
- The *Public Health Act* contains specific provisions regarding the confidentiality of personal information and states that identifiable information will only be transferred on the express request of public health authorities.
- Access to information legislation permits the disclosure of information pursuant to an Act. However, it contains no specific provisions regarding public health.
- The exchange of information with extraprovincial entities is contemplated in the *Public Health Act*.

**9. Saskatchewan****a) *Public health legislation****Collection*

The *Public Health Act, 1994* divides communicable diseases into two categories. Health professionals, laboratory managers, teachers, principals and people who operate establishments in which food is prepared must report personally identifiable information to a Medical Health Officer about Category I diseases (sections 32 *et seq.*). Persons infected by, or exposed to, a Category II disease (including an STD and other diseases such as tuberculosis) must report to a health professional and must provide health professionals with the names and contact information of all their contacts (section 33 of the *Public Health Act [1994]*). These professionals must provide the list of contacts to the Medical Health Officer if the affected person does not communicate with them himself or does not ask his physicians or nurses to do so (section 34). A Medical Health Officer may ask for such information on her own initiative (section 38(2)(k.1)). If so, she must notify the contacts that they have been exposed, without revealing the source of infection, however (section 35).

The Medical Health Officer must submit a report on communicable diseases to the coordinator of infectious disease control (at the Department of Health) (*Public Health Act, [1994]*, section 37). Two specific cases are described: identifying reports to the director of occupational health and safety when a person has contracted a communicable disease at work, and to the Canadian Blood Services if a person suffering a disease transmissible through blood has donated or received blood (sections 9 and 10 of the [Disease Control] Regulations).

### *Investigation*

Medical Health Officers may ask any person to comply with an order. This includes submitting to an examination or providing samples of bodily substances (*Public Health Act*, section 38). As mentioned, they may request a list of members of a group suspected of having been in contact with an infected person (section 38(2)(k.1)). The Minister may require any person who has relevant information in the event of an emergency or a serious public health risk to provide information (section 45(2)(g)).

### *Retention and disclosure*

Information regarding a communicable disease is confidential. The disclosure of such information is permitted, *inter alia*, when necessary to administer the Act, where required by law, at the request of the person concerned, or by order of the Minister for the purpose of protecting public health (*Public Health Act*, section 65).

### *Sharing of information*

The Regulations contemplate the intraprovincial circulation of information between various public health officials if one of them receives information concerning a person who lives outside his area or, more generally, for public health and disease control purposes ([Disease Control Regulations], sections 13 and 22). In addition, for the purposes of public health and communicable disease control, the coordinator may disclose personal information to public health agencies in other provinces or territories, federal public health agencies, or an agency of any other jurisdiction outside Saskatchewan (Disease Control Regulations, section 22).

## **b) *Personal information protection legislation***

The *Freedom of Information and Protection of Privacy Act* and the *Local Authority Freedom of Information and Protection of Privacy Act* generally regulate personal information held by public entities, whereas health information is more specifically regulated by the *Health Information Protection Act*. However, the provisions of the *Health Information Protection Act* that pertain to the disclosure of personal health information do not apply to information obtained under the *Public Health Act* (see subsection 4(4) of the *Health Information Protection Act*). Essentially, the remaining provisions provide that a custodian of personal health information must establish policies and practices to protect the integrity and confidentiality of the information (section 16). The *Freedom of Information and Protection of Privacy Act* and the *Local Authority Freedom of Information and Protection of Privacy Act* apply to information obtained pursuant to the *Public Health Act* (*Health Information Protection Act*, subsection 4(6)).

### *Collection and disclosure*

Personal information must be collected for a purpose related to an activity or program of the collecting institution. The institution must notify people of the purposes for which their information will be used unless they are exempted by the regulations or it would defeat such purposes. (*Freedom of Information and Protection of Privacy Act*, sections 25-26; *Local Authority Freedom of Information and Protection of Privacy Act*, sections 24-25). Personal information is confidential and cannot be used or disclosed unless authorized by law, notably pursuant to an agreement with the Government of Canada, a province, a territory or a foreign jurisdiction, where an enactment of Canada or Saskatchewan authorizes disclosure, for research or statistical purposes, to protect the health or safety of a person, or in the public interest (*Freedom of Information and Protection of Privacy Act*, sections 28-29; *Local Authority Freedom of Information and Protection of Privacy Act*, sections 27-28).

#### c) *Statistics legislation*

The *Vital Statistics Act* stipulates that a death certificate may disclose the cause of death where authorized by the Minister or a judge (section 42). The director may compile and publish personal information if the director deems it necessary and in the public interest (section 49).

#### **Summary:**

- This is a very complex system in which the *Health Information Privacy Act* governs the protection of the information collected, the *Public Health Act* governs its disclosure, access to information and privacy legislation articulates general rules about collection and protection of information, and the *Public Health Act* establishes mechanisms for communicating personal information.
- The *Public Health Act* contains specific provisions regarding the confidentiality of personal information involving all communicable diseases.
- Access to information and privacy legislation contains specific provisions regarding the notion of public interest.
- The regulations provide that personal information may be disclosed to federal, provincial or territorial public health authorities. Access to information and privacy legislation contemplates agreements with those levels of government for the use and communication of personal information.

## 10. Newfoundland and Labrador

### a) *Public health legislation*

#### *Collection*

The *Communicable Diseases Act* stipulates that physicians, hotel-keepers, teachers, dairypersons and persons in charge of a laundry must report communicable diseases to a public health official (a medical or other health officer) or the deputy minister. The information must be provided is personally identifiable (sections 3 *et seq.*). Infected persons are not required to report their condition but they must not frequent a public place (section 16). The *Venereal Disease Prevention Act* requires physicians, superintendents and heads of hospitals, laboratories, and numerous institutions to report the existence of sexually transmitted diseases on a daily basis to the Minister of Health (sections 4 and 8). Infected persons must consult a physician (section 3).

#### *Investigation*

A physician in charge of an institution may direct a suspected STD carrier to submit to an examination. A Medical Health Officer may direct a person to submit to a medical examination for a communicable disease (including an STD) and provide the officer with a report on his or her condition (*Communicable Diseases Act*, section 15; *Venereal Disease Prevention Act*, sections 7-9). A public health officer has the power to inspect premises, and persons found on the premises must provide her with the fullest possible information, including the name of the infected person and the source of the infection (*Communicable Diseases Act*, sections 6-7). The Minister may appoint a commissioner with the powers conferred by the *Public Inquiries Act* (see *Communicable Diseases Act*, section 14).

#### *Retention and disclosure*

Information regarding STDs is confidential; no one may disclose it except in the performance of her duties or when instructed to do so by a Medical Health Officer or the Minister of Health (*Venereal Disease Prevention Act*, sections 15-17). However, a physician may give information concerning an STD patient to persons residing in the same household as the patient (section 14). A physician must notify a hotel-keeper, boarding house keeper, etc., that a person in the property is suffering from a communicable disease (*Communicable Diseases Act*, section 4).

### *Sharing of information*

The *Emergency Measures Act* contemplates agreements with the government of Canada or a province regarding emergency measures (section 20).

#### **b) *Personal information protection legislation***

Public health statutes and regulations contain provisions regarding the confidentiality of STD-related information but have no provisions regarding other infectious diseases. Those enactments must therefore be interpreted in conjunction with the provisions governing the protection of personal information. The *Freedom of Information Act* governs access to information held by public bodies. A very succinct statute, it simply states that medical information must not be disclosed unless another statute authorizes disclosure (sections 10-11). Although the *Access to Information and Protection of Privacy Act* has not yet been proclaimed in force, it establishes a relatively complete legislative framework. We will now analyze it.

### *Collection*

The collection of personal information must be authorized expressly by statute or necessary for an activity of the public body (section 32).

### *Retention and disclosure*

Personal information may be used or disclosed if there are compelling circumstances affecting the health or safety of a person and a notice of the disclosure is sent; where a provincial or federal law authorizes disclosure or use; or for research or statistical purposes (sections 38-42). Use for public health purposes is not specifically mentioned, but comes within those paragraphs. In addition, the head of a public body must always disclose to the public, to an affected group of people or to an applicant, information about a risk of significant harm to the environment or to the health or safety of the public or a group of people, the disclosure of which is clearly in the public interest (section 31). The head of a public body must make appropriate arrangements to protect the confidentiality of personal information (section 36).

#### **c) *Statistics legislation***

In addition, the *Vital Statistics Act* simply states that a death certificate may disclose the cause of death (section 27).

**Summary:**

- The *Communicable Diseases Act* contains specific provisions regarding the confidentiality of personal information involving STDs but not other communicable diseases.
- One notable exception to confidentiality attaches where an STD carrier lives with others: his condition may be disclosed to those living with him.
- The *Freedom of Information Act* contains few rules applicable to the management of infectious diseases. The *Access to Information and Protection of Privacy Act* is more complete; it contains specific provisions regarding the public interest but no provisions regarding public health.
- There are no provisions regarding the exchange of information with federal authorities or the provinces. Provision is made for agreements with the federal government or the provinces in relation to emergency measures. These could include information transfer agreements.

**11. Northwest Territories and Nunavut****a) *Public health legislation****Collection*

The Communicable Diseases Regulations state that every person who believes that another person is infected with a communicable disease must notify a physician or the Chief Medical Health Officer (sections 2-3). The physician must contact the Chief Medical Health Officer and trace the person's contacts (section 4). Under the *Disease Registries Act*, health care professionals must notify the Registrar of any communicable disease. The information they must provide is personally identifiable (sections 2 *et seq.*). The Registrar is responsible for establishing a register for reportable diseases and reportable tests (section 9). To this end, the Registrar may obtain information from persons in charge of health facilities and from the Chief Medical Health Officer (sections 7 and 11).

*Investigation*

Under the *Public Health Act*, health officers (including Medical Health Officers) have the power to detain, for observation and surveillance, persons who have been exposed to a communicable disease, and to enter and inspect any premises; more generally, they have all the powers of a peace officer when acting in their official capacity (sections 13, 19 and 22). If the Chief Medical Health Officer has reason to suspect an occurrence of a communicable disease, he must conduct an investigation.

He may enter any premises, question any person and require him to submit to examinations (sections 10-11).

#### *Retention and disclosure*

The Chief Medical Officer of Health may post a placard near the entrance of the premises where an infected person resides (Disease Control Regulations, section 12). Under the Regulations, information regarding an STD case is confidential and may be disclosed only if the custodian's duties so require (section 19). The Regulations contain no similar rule for other communicable diseases. However, the *Disease Registries Act* stipulates that information regarding all reportable diseases contained in the register is confidential (section 12). Nonetheless, the Registrar, the Minister and his delegates may use the information contained in the register of notifiable diseases to identify patterns and reduce the incidence of diseases (*Disease Registries Act*, section 14). The Registrar may disclose information to a health care professional for a person's treatment and for research purposes (sections 15 and 18-19). The only difference between the Northwest Territories' legislative framework and that of Nunavut is that the Northwest Territories have expressly enacted that sections 11-20 of the *Disease Registries Act* prevail over the *Access to Information and Protection of Privacy Act* (see section 10.1 of the *Disease Registries Act*).

#### *Sharing of information*

The *Disease Registries Act* stipulates that the Minister of Health and the Information and Privacy Commissioner may enter into agreements with the government of Canada, a province or the Yukon Territory relating to the exchange of information contained in the register (section 16).

#### **b) *Personal information protection legislation***

The *Access to Information and Protection of Privacy Act* regulates personal information held by public bodies. However, on questions related to the management of infectious diseases, the more specific provisions of public health statutes and regulations govern. In the Northwest Territories, the *Disease Registries Act* expressly prevails. In Nunavut, specific rules regarding public health would seem to prevail over the general rules contained in personal information statutes, but some provisions from personal information legislation are relevant.

### *Collection*

The collection of personal information must be expressly authorized by an enactment or necessary for an activity of the public body (*Access to Information and Protection of Privacy Act*, section 40).

### *Retention and disclosure*

The disclosure of personal information is forbidden, except if it is not an unreasonable invasion of privacy. However, it may be used or disclosed for the purpose of monitoring a territorial or federal law, to protect the safety or the physical or mental health of an individual, or where disclosure is in the public interest (section 48). Use for public health purposes is not specifically mentioned but comes within these paragraphs. The Act provides that the head of a public body must take appropriate measures to protect the confidentiality of the personal information (section 42).

### *c) Statistics legislation*

The *Vital Statistics Act* states that a death certificate may disclose the cause of death if the Registrar General deems it appropriate or a judge orders disclosure (section 33). The Registrar General may compile and disclose personal information if he considers it necessary and in the public interest (section 44).

#### **Summary:**

- The *Public Health Act* contains specific provisions regarding the confidentiality of personal information involving STDs and reportable diseases but not other communicable diseases.
- The *Disease Registries Act* provides that personal information contained in the register is confidential.
- The *Access to Information and Protection of Privacy Act* contains specific provisions regarding public health and the concept of public interest.
- Provision is made for agreements with the government of Canada, a province or the Yukon regarding the exchange of information related to reportable diseases.



## 12. Yukon

### a) *Public health legislation*

#### *Collection*

The Communicable Diseases Regulations stipulate that medical practitioners, and “every person”, must immediately notify a Medical Health Officer of any designated communicable disease (sections 4-5). The Medical Health Officer must forward to the Chief Medical Health Officer a report of all communicable diseases of which he has received notice (section 10). The Venereal Disease Regulations require physicians, superintendents or heads of hospitals and laboratories and persons in medical charge of institutions to report STDs to the Commissioner (section 6). A person in medical charge of an institution must also notify the STD to a Medical Health Officer (section 8). Where a person who has been under treatment for venereal disease neglects to continue treatment, the attending physician must report the case to the Commissioner (section 12). Infected persons must also report their condition to a physician or a Medical Health Officer (*Communicable Disease Regulations*, section 3; *Venereal Disease Regulations*, section 5). The *Public Health and Safety Act* states that if a health officer suspects that there exists a hazard to public health or safety, he must notify the Department of Health and Social Services and the mayor of the affected municipality (section 16).

#### *Investigation*

The *Public Health and Safety Act* grants health officers (including Medical Officers of Health) the power to detain for observation and surveillance persons who have been exposed to a communicable disease and, more generally, all the powers of a peace officer (sections 3 and 14-15). Medical Officers of Health are mandated to investigate and take appropriate control measures against communicable diseases (*Communicable Diseases Regulations*, section 11). He may visit any dwelling, question any person and require any person to submit to examinations or provide samples (section 12). A person in medical charge of an institution may require a person to submit to a medical examination for an STD (*Venereal Disease Regulations*, section 8). A Medical Health Officer may direct a person to submit to a medical examination, submit a report on her health and provide evidence that she is undergoing treatment (sections 7 and 9).

#### *Retention and disclosure*

Medical Officers of Health must ensure that STD information is kept confidential; such information can only be disclosed in accordance with the law or by order of a Medical Officer of Health or the Commissioner (*Communicable Diseases Regulations*, section 20; *Venereal Disease Regulations*, sections 14-15 and 18). There is no confidentiality rule for communicable diseases. Medical Health Officers must maintain a

register of communicable diseases and may post a warning notice at the entrance of the premises of a person infected with a communicable (Communicable Diseases Regulations, sections 10 and 13). An attending physician must notify the contacts of a patient infected with a communicable disease (section 5).

### *Sharing of information*

Under the *Civil Emergency Measures Act*, the Commissioner may enter into agreements with the government of Canada or a province regarding the preparation and implementation of a civil emergency plan (section 4).

### **b) *Personal information protection legislation***

The *Access to Information and Protection of Privacy Act* establishes a fairly complete legislative framework for personal information held by public bodies. When managing infectious disease information, one must obviously refer to the more specific provisions of regulations enacted under the *Public Health Act*. However, certain complementary provisions are relevant.

### *Collection*

Collection must be expressly authorized by an Act or necessary for carrying out an activity of the public body (section 29). A public body must tell the individual the purpose for collecting the information unless the Minister excuses the public body from this requirement (section 30).

### *Retention and disclosure*

Personal information may be used or disclosed if compelling circumstances exist that affect anyone's health or safety and a notice of disclosure is sent; if a federal or provincial enactment requires disclosure or for research or statistical use (sections 35-36). In addition, a public body must always disclose information to the public or an affected group of people regarding a serious health or safety hazard to the public or group of people, and must take care, where practicable, to notify the persons concerned, and the Information and Privacy Commissioner, in advance of the disclosure (section 28). The Act also requires public bodies to make appropriate arrangements to protect the confidentiality of personal information (section 33).

c) *Statistics legislation*

The *Vital Statistics Act* states that a death certificate may disclose the cause of death on the order of a court (section 31). The Registrar may compile and publish personal information if the Registrar considers that disclosure would be in the public interest (section 35). In addition, the Commissioner may enter into an agreement with the Government of Canada in respect of any matter (section 40).

**Summary:**

- The *Public Health Act* contains specific provisions regarding the confidentiality of personal information involving STDs but not other communicable diseases.
- One notable exception to the confidentiality rule is that the contacts of a person infected with a communicable disease are notified of his condition.
- The *Access to Information and Protection of Privacy Act* contains specific provisions regarding public health and the concept of public interest.
- There are no provisions regarding exchanges of information with the federal authorities or the provinces. Provision is made for emergency measures agreements with those levels of government; these could include information transfer agreements, but such agreements would only apply in an emergency.

C. **Federal legislation**

1. **The *Personal Information Protection and Electronic Documents Act***

The *Personal Information Protection and Electronic Documents Act* (PIPEDA) applies to organizations that collect, use or disclose personal information in the course of commercial activities (paragraph 4(1)(a)). It is not yet clear whether PIPEDA applies to health care service providers and, if it does, the ways in which it applies. In our context, PIPEDA could apply to private medical practitioners, private laboratories and other organizations that are involved in commercial activities and have reporting duties under public health legislation.

*Collection*

Under the PIPEDA, an organization (for the purposes of this discussion, this includes a physician, laboratory or other organization that has a duty to report) can only collect personal information with the consent of the interested person (section 5, principle 4.3.1 of the Schedule). The PIPEDA does not provide for any public health exceptions. Thus, a physician who orders blood tests or other tests for a patient must obtain the patient's consent beforehand. However, in a pinch, it could be argued that the exception authorizing collection without consent if "the collection is clearly in the interests of the

individual and consent cannot be obtained in a timely way” (paragraph 7(1)(a)) permits the non-consensual collection of information regarding the health of a person suspected having a communicable disease provided it would enable the person to be diagnosed and obtain treatment.

### *Disclosure*

The PIPEDA states that an organization cannot disclose personal information (including personal health information) without the knowledge and consent of the person concerned. However, it provides for exceptions to this rule when disclosure is “made to a person who needs the information because of an emergency that threatens the life, health or security of an individual” (paragraph 7(3)(e)) or when it is required by law (paragraph 7(3)(i)). Since public health statutes and regulations that occurrences of designated infectious diseases be reported, the PIPEDA would not prohibit the disclosure of such occurrences to public health authorities. In addition, certain provincial public health laws prevail over any other law in the event of an inconsistency. The federal statute also contains a provision to this effect, but it does not apply if another statute contains a contrary provision.

Thus, the PIPEDA could complicate the collection of information used in the surveillance of infectious diseases.<sup>16</sup> However, it appears that there would be no prohibition against reporting information to public health authorities, provided the information is needed under provincial law.

## **2. The *Privacy Act***

The collection, use and disclosure of personal information held by a federal government institution such as the Department of Health (Health Canada) is governed by the *Privacy Act*.

### *Collection*

Health Canada may collect personal information only if it relates directly to its activities (section 4).

### *Use*

Under section 7, Health Canada can only use the personal information in its possession for the purposes for which it was collected, or for a use consistent with that

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16 *Supra* note 1 at 179.

purpose, if it collected the information itself. If it did not collect the information, it can only use it for the purposes for which it could be disclosed to it pursuant to subsection 8(2).

### *Disclosure*

Under limited circumstances, Health Canada may disclose confidential information without the consent of the person to whom it relates. This includes cases where disclosure is made for a use consistent with the purposes for which it was collected; for statistical or research purposes; and pursuant to an agreement with the government of a province. It also includes circumstances where a violation of the person's privacy is justified (subsection 8(2)).

### *Retention*

It should be noted that this personal information, once used, must be retained for enough time to enable the individual concerned to exercise his right of access (subsection 6(1)) or his right to request the correction of errors or omissions (subsection 12(2)). Government institutions must take all reasonable steps to ensure that personal information in their possession is as accurate, up-to-date and complete as possible (section 6(2)). Lastly, after the mandatory retention period has elapsed, federal institutions also have a duty to dispose of the information in accordance with the directives issued by the designated minister (subsection 6(3)).

### III. Comparative Analysis

The legislative approach that the provinces and territories have adopted clearly reflects the need to strike an appropriate balance between protecting the right to medical confidentiality and protecting public health. This balance appears to lie between mandatory non-consensual reporting of such information to the public health authorities and the protection of its confidentiality when it is retained and used by such authorities. However, public health legislation does not always provide a clear statement of rules regarding use, retention and disclosure. In several provinces and territories, the use, retention and disclosure of relevant information is governed by general provisions found in access to information statutes, public body PIP legislation or statutes protecting personal health information.

#### A. Collection

Our analysis of public health legislation and regulations reveals that they establish a detailed framework for the collection of personal infectious disease information. Generally, the type of information, and the method for collecting it, are the same in every province. The provincial reportable or notifiable disease lists are very similar to each other. Variations probably reflect regional differences in the incidence of certain illnesses. Some provinces categorize notifiable diseases differently, either by creating distinct lists for sexually transmissible diseases and other communicable diseases, or by drawing distinctions based on the virulence or severity of the disease. However, these different categories have little effect on the collection itself because the information requested is relatively uniform. The differences lie mainly in the classes of persons who have a duty to report occurrences of communicable disease and the time limits for reporting and transferring information within the province, generally from a Medical Officer of Health to the Chief Medical Officer of Health. However, it should be noted that in certain provinces, notably Alberta and Saskatchewan, the duty to collect information about persons who have been in contact with an infected person apply only to STDs. In other provinces and territories, notably Ontario and the three territories, it encompasses broader categories of illnesses.

Lastly, all provinces can react quickly to the emergence of a new disease because their reportable disease lists are contained in a regulation, as opposed to a statute, which is much more complicated to amend. There is one exception: in Newfoundland and Labrador, the list of reportable diseases is found in the *Communicable Diseases Act*. However, the list also includes “other diseases that may be declared by the minister by order to be a communicable disease.” Thus, all provinces and territories have a relatively simple procedure for changing their lists of reportable diseases.

## **B. Retention and disclosure**

The standards for retaining and disclosing personal infectious disease information vary greatly between the provinces and territories.

### ***1. Infectious disease registries***

In certain provinces and territories (notably in Manitoba, Quebec and the three territories) public health legislation provides for the creation of infectious disease registries. British Columbia and Nova Scotia legislation also calls for registries, but they only contain information about STDs (British Columbia) or tuberculosis (Nova Scotia). Alberta, Prince Edward Island, New Brunswick, Ontario, Saskatchewan, and Newfoundland and Labrador legislation contains no provision contemplating the creation of a register. This does not mean that the provinces have no databases, or registries of some kind, containing such information.

This divergence raises the question whether it is more advantageous to create a statutory duty to create a register of infectious diseases where the general powers granted to public health authorities may include the authority to create a database. We note that a formal duty could make it possible to establish specific guidelines or rules, assign responsibility for the register and increase transparency.

### ***2. Confidentiality***

The rules protecting the confidentiality of personal infectious disease information vary from province to province as to both content and form. In some provinces and territories, public health statutes and regulations contain rules regarding the confidentiality of personal information. A few are exhaustive, but they are the exception. Often the rules are relatively cursory. In some cases they are almost non-existent, in which case one must turn to public body PIP legislation, and any health information protection legislation, to determine which rules apply. It should also be noted that some statutes contain provisions establishing the order of priority in the event of a conflict with other statutes. This includes the Alberta *Public Health Act*, which states that it prevails over all other Acts in the event of an inconsistency.

The result is an extremely complex system of laws and rules in which several statutory and regulatory provisions must be considered and compared before the applicable rules can be identified – a lengthy and potentially confusing process.

**(a) *Content of confidentiality rules***

Alberta, Prince Edward Island, New Brunswick, Ontario, Quebec and Saskatchewan have public health laws or regulations that provide for the confidentiality of personal information regarding all infectious diseases, including STDs. In the other provinces (British Columbia, Manitoba, Nova Scotia and Newfoundland and Labrador) and in the territories, only information regarding STDs is confidential.

One can imagine that this distinction between STDs and other infectious diseases dates back to a time when people could be ostracized and stigmatized if it became known that they had a sexually transmitted disease. Such diseases were considered particularly shameful and a sign of amoral conduct. Today it can be questioned whether such a distinction should still exist since other infectious diseases can bear a stigma. Toronto's experience in 2003 clearly showed how an infectious disease could tarnish the image of a community.

Nevertheless, in all provinces and territories, public sector PIP legislation provides that personal information held by public bodies – including health information – is confidential.

**(b) *Exceptions to confidentiality***

The rules that public health and PIP legislation establish in relation to the confidentiality of personal infectious disease information are subject to some exceptions. Generally, the laws list circumstances and situations in which a public body – public health authorities or departments of health for our purposes – may disclose personal information without the consent of the person to whom it relates. While these circumstances vary from one province or territory to another, some exceptions are common to all jurisdictions. For example, in all provinces and territories, public bodies may disclose personal information regarding an individual in the following circumstances: to a third party if the individual consents; to an official in the performance of her duties; or for the purposes for which the information was collected. The other exceptions vary.

*Public interest*

The non-consensual disclosure of personal information may be justified for public interest reasons, notably if it is done for the administration of public health (in Ontario), if there is a serious and imminent threat to public health (in British Columbia, Prince Edward Island, Manitoba, en Nova Scotia, Ontario, Quebec and Yukon), or if it is not an unreasonable invasion of the individual's privacy having regard to the aim of protecting public health (in British Columbia, Nova Scotia, Ontario and the territories).



### *Interests of a person*

In some provinces and in the territories, the exceptions to the confidentiality rule also permit disclosure to protect the health of a person. In Alberta, British Columbia and the three territories non-consensual disclosure of personal information is justified if there is a serious threat to public health or an imminent danger to the health of a person. The other provinces do not provide for such an exception.

Certain provinces have enacted specific rules to protect the families of infected persons. Prince Edward Island's laws and regulations authorize Medical Officers of Health and other physicians to disclose the condition of an infected person to his or her family members. There is a similar exception in Newfoundland and Labrador, where the condition can be disclosed to people who live with an infected person. While the provisions of the Alberta, of British Columbia and territorial statutes encompass family members in the notion of an individual, the exception contemplated by the specific provisions is less restrictive.

No other statute permits a physician or health care professional to notify the family members of an infected person about the risk to which they may be exposed. Thus, in this area, protection is not equal throughout Canada.

### *Placarding*

In Nova Scotia and the three territories, medical health officers have the power to post, at the home of an infected person, notice warning of the existence of a communicable disease. The rule applies only to diseases other than STDs.

## **C. Sharing of information**

### *(a) Specific provisions*

Only four provinces expressly grant the director of public health, or a delegate, the power to communicate personal information extraprovincially in order to monitor or prevent the spread of infectious diseases. Manitoba, Quebec and Saskatchewan allow the information to be sent to the federal government or another province or territory; the regulations of Prince Edward Island contemplate transfers to the federal government only. If Ontario's personal health information protection bill is passed, the public health services of the province will also have the express power to send information to the federal government or to other provinces or territories.

***(b) Provisions contemplating agreements***

The New Brunswick, Northwest Territories and Nunavut legislation does not grant such a power, but it does give the minister the authority to enter into agreements with the federal government, the provinces or another territory under which it can communicate personal information to protect public health.

***(c) Lack of specific provisions***

The Alberta, British Columbia, Nova Scotia, Ontario, Newfoundland and Labrador and Yukon public health legislation contains no provisions expressly permitting the extraterritorial communication of personal information.

Howe ever, as we have seen, some of these provinces' public health and PIP legislation contains broad exceptions to the duty of confidentiality based on public interest, without specifying whether disclosure can be made to an organization located outside the province. For example, Alberta's *Public Health Act* contains general provisions that permit the disclosure of personal information to a third party if, among other things, disclosure is in the public interest and the minister consents in writing to such disclosure. In Nova Scotia, the disclosure of information contained in the tuberculosis register is permitted if it is in the public interest. In Ontario, disclosure is permitted for public health administration purposes.

In sum, while very few statutes expressly provide for interjurisdictional information-sharing, certain very broad provisions in statutes of each province could be used as a basis to authorize the transfer of personal information to public health authorities at the federal level or in other provinces or territories. However, such transfers might not be considered acceptable on a stricter reading of these statutes.

## IV. Conclusion and potential solutions

As we have seen, the legislative framework governing the confidentiality and management of personal health information and infectious diseases does not form a uniform and coherent whole. The laws establish specific rules governing research and action, but not surveillance. While the exception to the health care professional's duty of confidentiality is well-entrenched in statutes, the way in which personal information regarding infectious diseases is managed once the information is in the hands of a public health authority varies from jurisdiction to jurisdiction. The fact that the rules for disclosure and sharing are not harmonized creates an extremely complex system and could affect Canada's ability to participate in public health research, monitoring and protection activities at an international level. It is a source of uncertainty and opaqueness. This could be problematic because citizens expect their personal medical information to be kept in confidence. Thus, clearly stated limits, and a transparent system, could build public confidence.

### A. Potential solutions

Various measures could be implemented to redress the problems we have identified.

#### 1. *Legislative framework*

At a general level, the federal government, the provinces and the territories could work together to simplify the legislative framework governing the protection of personal infectious disease information. We have identified two major elements in this regard:

- (1) **integration:** the powers and duties with regard to personal infectious disease information should be integrated into a single source in every province and territory because it is difficult, at present, to ascertain the scope of each stakeholder's duties and functions;
- (2) **coherence:** a coherency, if not uniformity of approach for the standards and rules of each province and territory, notably in relation to the collection and disclosure of personal medical information regarding infectious diseases, should be developed. By harmonizing elements such as the circumstances in which non-consensual disclosure of personal information is justified, the people responsible for making such disclosure, the people to whom the information can be communicated, and the transfer of the information between public health authorities, we could prevent delays in processing information and avoid public confusion. An interprovincial approach to this harmonization should be taken.

## **2. *Collection***

The federal government, provinces and territories could examine the categories of information collected by each administrative level (i.e. local Medical Officers of Health, Chief Medical Officers of Health of a province or territory, and provincial, territorial and federal health ministers) and the needs of each level. In order better to protect privacy, the collection of personal information should be limited to what each level requires and, where possible, de-identified or coded information should be collected instead.

## **3. *Retention and disclosure***

(a) The federal government, and the provinces and the territories could conduct a review of personal information retention rules and practices, including the question of whether it would be helpful to create infectious disease registries in each province and territory. Registries of this kind should adopt a uniform approach to retaining information so that it can be transferred more easily.

(b) As far as disclosure is concerned, the provinces and territories could also adopt a uniform approach to the rules governing the confidentiality of personal information regarding STDs and other communicable diseases.

(c) The provinces and territories could harmonize the rules for protecting infected persons' relatives, loved ones, partners and cohabitants; some provinces and territories do not permit the communication of health or risk-related information to such people.

## **4. *Sharing of information***

If the provinces, territories and federal government developed clear rules regarding the transfer of information between various jurisdictions, the coordination between the various levels of government could improve, our ability to conduct surveillance could be enhanced and greater transparency could result. Such rules should cover information from each jurisdiction and from other sources like the World Health Organization.

## **B. *The next steps and avenues for research***

In this report, we analyzed provincial and territorial legislation and case law regarding issues of the privacy and confidentiality of personal infectious disease information. Other aspects deserve to be examined more thoroughly.

It would be interesting and most advisable to examine the unreported decisions of Canada's courts and its federal and provincial privacy commissioners with respect to the confidentiality of infectious disease information. A study of the scholarly writing on

questions of confidentiality in relation to HIV/AIDS, and of other countries' rules, could also bring out distinctions or relevant criteria for analysis.

Our analysis also raises questions about the application of statutory and regulatory rules to the facts. There is a complex legal framework, but how does it translate into practice? What actually happens in the provinces? How is information shared between the provinces, the federal level and the territories? Do the provinces have ties with the international arena, particularly with the World Health Organization? These questions, in relation to selected provinces, could be considered.

We have not addressed the issue of the public health authorities' powers to compel infected persons to obtain treatment for diseases and apply measures designed to prevent their transmission. Yet these powers raise fundamental questions about the right to the integrity of the person as opposed to the protection of public health and of those who are close to the infected person. A detailed consideration of these questions would be helpful.

Lastly, our analysis reviews the current rules in Canada, but the SARS crisis clearly showed that infectious disease surveillance and health protection are international in scope, particularly in view of globalization and increased mobility. It would therefore be desirable to develop a harmonized and complementary legislative framework. To this end, it would be a good idea to examine and analyse recent developments at the international level and the rules and legislative framework governing infectious disease surveillance in various countries. Great Britain, Australia, the United States, France and the European Union would be interesting case studies.

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*Vital Statistics Act*, C.C.S.M. c. V-60.

*Diseases and Dead Bodies Regulation*, Man. Reg. 338/88R.

## **New Brunswick**

*Protection of Personal Information Act*, S.N.B. 1998, c. P-19.1.

*Public Health Act*, S.N.B. 1998, c. P-22.4.

*Venereal Disease Act*, R.S.N.B. 1973, c. V-2.

*Vital Statistics Act*, S.N.B. 1979, c. V-3.

## **Nova Scotia**

*Communicable Diseases Regulations*, N.S. Reg. 28/57.

*Freedom of Information and Protection of Privacy Act*, R.S.N.S. 1993, c. 5.

*Health Act*, R.S.N.S. 1989, c. 195.

*Public Inquiries Act*, R.S.N.S. 1989, c. 372 .

*Tuberculosis Control Regulations*, N.S. Reg. 45/42.

*Vital Statistics Act*, R.S.N.S. 1989, c. 494.

## **Ontario**

*Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F-31.

*Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M-56.

*Health Protection and Promotion Act*, R.S.O. 1990, c. H-7.

*Public Inquiries Act*, R.S.O. 1990, c. P-41.

*Vital Statistics Act*, L.R.O. 1990, c. V-4.

Bill 31, *Health Information Protection Act*, 2004, 1st Sess., 38th Leg., Ontario, 2003  
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*Reports*, R.R.O. 1990, Reg. 569.

## **Quebec**

*Charter of human rights and freedoms*, R.S.Q., c. C-12.

*Civil Code of Québec*, S.Q. 1991, c. 64.

*An Act respecting access to documents held by public bodies and the protection of personal information*, R.S.Q., c. A-2.1.

*An Act respecting the protection of personal information in the private sector*, R.S.Q., c. P-39.1.

*Public Health Act*, R.S.Q., c. S-2.2.

*An Act respecting public inquiry commissions*, R.S.Q., c. C-37.

*An Act respecting health services and social services*, R.S.Q., c. S-4.2.

*Regulation under the Public Health Act*, R.S.Q., c. S-2.2, r.1.

## **Saskatchewan**

*Disease Control Regulations*, R.R.S., c. P-37.1, Reg. 11.

*Freedom of Information and Protection of Privacy Act*, S.S. 1990-91, c. F-22.01.

*Health Information Protection Act*, S.S. 1999, c. H-0.021.

*Local Authority Freedom of Information and Protection of Privacy Act*, S.S. 1990-91, c. L-27.1.

*Public Health Act, 1994*, S.S. 1994, c. P-37.1.

*Vital Statistics Act*, S.S. 1995, c. V-7.1.

## **Newfoundland and Labrador**

*Access to Information and Protection of Privacy Act*, S.N.L. 2002, c. A-1.1 [To be Proclaimed].

*Communicable Disease Act*, R.S.N.L. 1990, c. C-26.

*Emergency Measures Act*, R.S.N.L. 1990, c. E-8.

*Freedom of Information Act*, R.S.N.L. 1990, c. F-25 [Repealed, 2002, c. A-1.1, s. 76 – not proclaimed in force].

*Public Inquiries Act*, R.S.N.L. 1990, c. P-38.

*Venereal Disease Prevention Act*, R.S.N.L. 1990, c. V-2.

*Vital Statistics Act*, R.S.N.L. 1990, c. V-6.

## **Northwest Territories**

*Access to Information and Protection of Privacy Act*, S.N.W.T. 1994, c. 20.

*Public Health Act*, S.N.W.T. 1988, c. P-12.

*Disease Registries Act*, R.S.N.W.T. 1988, c. 7.

*Vital Statistics Act*, S.N.W.T. 1988, c. V-3.

*Communicable Diseases Regulations*, R.R.N.W.T. 1990, c. P-13.



## **Yukon**

*Access to Information and Protection of Privacy Act*, R.S.Y. 2002, c. 1.

*Public Health and Safety Act*, R.S.Y. 2002, c. 176.

*Civil Emergency Measures Act*, R.S.Y. 2002, c. 34.

*Vital Statistics Act*, R.S.Y. 2002, c. 225.

*Communicable Diseases Regulations*, C.O. 1961/48.

*Venereal Diseases Regulations*, C.O. 1958/97.

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*Canadian AIDS Society v. Ontario*, (1995) 25 O.R. (3d) 388 (Gen. Div.), aff'd (1996), 31 O.R. (3d) 798 (C.A.), leave to appeal to S.C.C. refused [1997] S.C.C.A. No. 33 (QL: SCCA).

*Frenette v. Metropolitan Life Insurance Co.*, [1992] 1 S.C.R. 647.

*Hunter v. Southam Inc.*, [1984] 2 S.C.R. 145.

*Peters-Brown v. Regina District Health Board*, [1995] S.J. No. 609 (Q.B.).

*Québec (Commission des droits de la person et de la jeunesse) v. Magasins Wal-Mart Canada Inc.*, T.D.P.Q. Terrebonne, No. 700-53-000004-006, 2003-03-12.

*R. v. Dyment*, [1988] 2 S.C.R. 417.

*R. v. O'Connor*, [1995] 4 S.C.R. 411.

*R. v. Plant*, [1993] 3 S.C.R. 281.

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## **APPENDIX A**

### **Summary Tables**

## Alberta

	<b>Public health legislation and regulations</b>		<b>Privacy/PIP legislation</b>
<b>Priority</b>	In the event of conflict with the <i>Health Information Act</i> , the <i>Public Health Act</i> prevails		
<b>Collection</b>			<ul style="list-style-type: none"> <li>• expressly authorized by an enactment of Alberta or Canada; or</li> <li>• necessary for an activity of the public body</li> </ul>
<b>Mandatory reporting</b>	Communicable diseases	Sexually transmitted diseases	
Who reports	<ul style="list-style-type: none"> <li>• Infected person must report to a physician</li> <li>• Health professionals</li> <li>• Laboratory directors</li> <li>• Teachers</li> <li>• Persons in charge of an institution</li> <li>• Funeral directors</li> </ul>		N/A
To whom	Medical Officer of Health of their regional health board		N/A
Who receives	Chief Medical Officer of Health		N/A
Duty to inform concerned person of the purposes for which information will be used	No		No
What information	Identifiable (including name, address, age and sex).	Identifiable (including the names of sexual partners).	N/A
<b>Investigative powers:</b>			
General	A Medical Officer of Health may request personal information if <ul style="list-style-type: none"> <li>• a suspected infectious disease carrier is frequenting public places</li> <li>• in an emergency</li> </ul>		N/A
Specific			
Inspection of premises	Yes		N/A

## Alberta

	<i>Public health legislation and regulations</i>	<i>Privacy/PIP legislation</i>
Ordering person to submit to medical exam	Yes	N/A
Samples	No provision	N/A
<b>Retention</b>		
Confidentiality	Yes	Yes
Registry	No provision	No provision
<b>Disclosure</b>	<ul style="list-style-type: none"> <li>• where required by a law</li> <li>• to minimize an imminent danger to the health or safety of a person</li> <li>• where the information is in statistical form (non-identifiable);</li> <li>• in the public interest, if the Minister of Health consents</li> <li>• for the administration of public health measures in relation to communicable diseases</li> </ul>	<ul style="list-style-type: none"> <li>• if the affected person consents</li> <li>• where required or permitted by a provincial or federal enactment</li> <li>• to minimize an imminent danger to the health or safety of a person</li> <li>• for public health surveillance (to a custodian of health information within the province)</li> <li>• between various public health authorities within the province</li> </ul>
Review of decisions	No provision	The Information and Privacy Commissioner may rule on an application to review a decision by a health information custodian.
<b>Sharing:</b>		
with the provinces	No provision	No provision
with the federal gov't	No provision	No provision

## British Columbia

	<b>Public health legislation and regulations</b>		<b>Privacy/PIPIA legislation</b>
<b>Priority</b>	No provision		No provision
<b>Collection</b>			<ul style="list-style-type: none"> <li>• expressly authorized by law</li> <li>• necessary for an activity authorized by law</li> </ul>
<b>Mandatory reporting:</b>	Communicable diseases	Sexually transmitted diseases	
Who reports	Anyone, including <ul style="list-style-type: none"> <li>• Physicians</li> <li>• Householders</li> <li>• Hospital directors</li> <li>• Laboratory directors</li> <li>• Funeral directors</li> </ul>	Anyone, including <ul style="list-style-type: none"> <li>• Physicians</li> <li>• Householders</li> <li>• Hospital directors</li> <li>• Laboratory directors</li> <li>• Funeral directors</li> <li>• Heads of detention centres</li> </ul>	N/A
À qui	Medical Officer of Health		N/A
Who receives	Chief Medical Officer of Health of the province		N/A
Duty to inform concerned person of purposes for which info will be used	No		No
What information	Identifiable (including name and address).		N/A
<b>Investigative powers:</b>			
General:	No provision		N/A
Specific:			N/A
Inspection of premises	No provision		N/A
Requiring person to submit to medical exam	Yes		N/A
Samples	No provision		N/A
<b>Retention:</b>			

## British Columbia

	<b>Public health legislation and regulations</b>		<b>Privacy/PIP legislation</b>
Confidentiality	No provision	Yes	Yes
Registry	No provision	Yes	No provision
<b>Disclosure:</b>	<p>Results of examinations may be disclosed:</p> <ul style="list-style-type: none"> <li>• to public health authorities</li> <li>• to physicians</li> </ul>	<ul style="list-style-type: none"> <li>• in accordance with the <i>Venereal Disease Act</i> (i.e. to a person at risk that must undergo an exam; this does not imply any disclosure of personal information)</li> <li>• by order of Minister of Health</li> </ul>	<ul style="list-style-type: none"> <li>• if the affected person consents</li> <li>• where there are compelling circumstances that could affect the life or safety of a person</li> <li>• where authorized by a provincial or federal enactment</li> <li>• for research purposes or statistical use</li> <li>• for the purposes for which the information was collected or for consistent purposes</li> <li>• where required by a provincial or federal enactment</li> <li>• where required or authorized by an agreement made pursuant to a provincial or federal enactment</li> <li>• to an employee of a public body in the performance of her duties</li> <li>• where there is a serious danger to public health or safety</li> <li>• in the public interest</li> </ul>
Review of decisions	No provision		The Information and Privacy Commissioner may rule on an application to review a decision by a public body.
<b>Sharing</b>			
with the provinces	No provision		Yes, pursuant to an agreement made under a BC or federal enactment.
with the federal gov't	No provision		Yes, pursuant to an agreement made under a BC or federal enactment.
<b>Other</b>	Where a person voluntarily submits to an examination for an infectious disease and the resulting information gives rise to a duty to notify but the person does not consent to disclosure, the information can only be disclosed to a Medical Officer of Health.		

## Prince Edward Island

	<i>Public health legislation and regulations</i>	<i>Privacy/PIP legislation</i>
<b>Priority</b>	No provision	No provision
<b>Collection</b>		<ul style="list-style-type: none"> <li>• expressly authorized by a provincial or federal enactment; or</li> <li>• necessary to carry out an activity of the public body.</li> </ul>
<b>Mandatory reporting:</b>		
Who reports	Anyone, including <ul style="list-style-type: none"> <li>• Physicians</li> <li>• Persons in authority in a public place</li> <li>• Teachers and principals</li> </ul>	N/A
To whom	Medical Officer of Health	N/A
Who receives	<ul style="list-style-type: none"> <li>• Chief Health Officer of the province; and</li> <li>• Appropriate agencies in Canada.</li> </ul>	N/A
Duty to inform concerned person of purposes for which info will be used	<b>No</b>	Yes, unless it could result in collecting error-prone information
What information	Not described	N/A
<b>Investigative powers:</b>		
General	<ul style="list-style-type: none"> <li>• Minister responsible for public health: power to make investigations or surveys regarding the appearance of certain diseases</li> <li>• His/her delegate: powers of a comm'r under <i>Public Inquiries Act</i>.</li> </ul>	N/A
Specific:		N/A
Inspection of premises	Yes	N/A
Requiring a medical exam	Yes	N/A
Samples	Yes	N/A
<b>Retention:</b>		
Confidentiality	Yes	Yes

## Prince Edward Island

Registry	No provision	No provision
<b>Disclosure</b>	<ul style="list-style-type: none"> <li>• where the affected person consents</li> <li>• where the Chief Health Officer orders that disclosure is in the interest of the person or the public</li> <li>• the Chief Health Officer or another physician notifies the family members of a person who has an infectious disease</li> <li>• if the Minister finds it is in the public interest</li> </ul>	<ul style="list-style-type: none"> <li>• if the affected person consents</li> <li>• where there are compelling circumstances that could affect the life or safety of a person</li> <li>• where authorized or required by a provincial or federal enactment</li> <li>• for research purposes or statistical use</li> <li>• for the purposes for which the information was collected or for consistent purposes</li> <li>• where required by an agreement made pursuant to a provincial or federal enactment</li> <li>• to an employee of a public body in the performance of her duties</li> <li>• to avert or minimize a danger to the health or safety of a person</li> <li>• where there is a serious danger to the health or safety of a person, a group or the public</li> <li>• in the public interest</li> </ul>
Review of decisions	No provision	The Information and Privacy Commissioner may rule on an application to review a decision by a public body.
<b>Sharing</b>		
with the provinces	No provision	No provision
with the federal gov't	Yes	No provision



## Manitoba

	<b>Public health legislation and regulations</b>	<b>Privacy/PIP legislation</b>
<b>Priority</b>	No provision	No provision
<b>Collection:</b>		<ul style="list-style-type: none"> <li>limited to that which is necessary for the purpose</li> </ul>
Who reports	<ul style="list-style-type: none"> <li>Health professionals</li> <li>Laboratory operators</li> <li>Hospital administrators</li> </ul>	N/A
À qui	<ul style="list-style-type: none"> <li>Medical Officer of Health; or</li> <li>Director of Communicable Disease Control</li> </ul>	N/A
Who receives	<ul style="list-style-type: none"> <li>Director of Communicable Disease Control</li> </ul>	N/A
Duty to inform concerned person of purposes for which info will be used	<b>No</b>	Yes
What information	Identifiable	N/A
<b>Investigative powers:</b>		
General:	<ul style="list-style-type: none"> <li>power to require that an entity disclose personal or medical information to the health authorities</li> <li>power to order an inquiry into the causes of a communicable disease; the person responsible has the powers of a commissioner appointed under the <i>Manitoba Evidence Act</i>.</li> </ul>	N/A
Specific:		N/A
Inspection of premises	<b>Yes, in emergencies</b>	N/A
Requiring person to submit to medical exam	Yes	N/A
Samples	No provision	N/A

## Manitoba

	<i>Public health legislation and regulations</i>	<i>Privacy/PIIP legislation</i>
<b>Retention:</b>		
Confidentiality	For personal information involving STDs	Yes
Registry	Yes	No provision
<b>Disclosure:</b>	<ul style="list-style-type: none"> <li>• various entities within the province</li> </ul>	<ul style="list-style-type: none"> <li>• if the affected person consents</li> <li>• to minimize a danger to the health or safety of the public or a person</li> <li>• for research purposes</li> <li>• for retention in a computerized medical information network and database for the purpose of the delivery, evaluation or monitoring of a program that relates to the provision of health care</li> <li>• where required by an arrangement or agreement made pursuant to a provincial or federal enactment</li> <li>• when authorized by federal or provincial enactment</li> </ul>
Review of decisions	No provision	The Ombudsman may rule on an application for the review of a decision made by a public body
<b>Sharing:</b>		
with the provinces	Yes	No provision
with the federal gov't	Yes	No provision

## New Brunswick

	<b><i>Public health legislation and regulations</i></b>	<b><i>Privacy/PIP legislation</i></b>	
<b>Priority</b>	In the event of an inconsistency, the provisions of the <i>Public Health Act</i> regarding the confidentiality of personal information prevail.	No provision	
<b>Collection:</b>		<ul style="list-style-type: none"> <li>• must involve an activity of the body</li> </ul>	
<b>Mandatory reporting:</b>	Communicable or notifiable diseases	Sexually transmitted diseases	
Who reports	Anyone who believes there is a danger to public health, including <ul style="list-style-type: none"> <li>• Health professionals</li> <li>• Persons in charge of institutions</li> <li>• Principals or daycare directors</li> <li>• CEOs of regional health authorities</li> <li>• Teachers</li> <li>• Householders</li> <li>etc.</li> </ul>	<ul style="list-style-type: none"> <li>• The affected person must report to a physician;</li> <li>• Health professionals</li> <li>• Persons in charge of institutions</li> <li>• Principals or daycare directors</li> <li>• CEOs of regional health authorities</li> <li>• Teachers</li> <li>• Householders</li> <li>etc.</li> </ul>	N/A
To whom	<ul style="list-style-type: none"> <li>• Medical Officer of Health; or</li> <li>• Person designated by the Minister of Health</li> <li>• Public health inspector</li> </ul>	N/A	
Who receives	No provision	N/A	
Duty to inform concerned person of purposes for which info will be used	No	No	
What information	Identifiable information (including contacts).	N/A	

## New Brunswick

	<i>Public health legislation and regulations</i>	<i>Privacy/PIPIA legislation</i>
<b>Investigative powers:</b>		
General:	No provision	N/A
Specific:		N/A
Inspection of premises	Yes, including a private dwelling in any of the following cases: <ul style="list-style-type: none"> <li>• occupant consents</li> <li>• warrant</li> <li>• emergency</li> </ul>	N/A
Requiring person to submit to medical exam	Yes	N/A
Samples	Yes	N/A
<b>Retention:</b>		
Confidentiality	Yes	Yes
Registry	No provision	No provision
<b>Disclosure</b>	<ul style="list-style-type: none"> <li>• where necessary for administration of <i>Public Health Act</i> and regulations thereunder</li> <li>• when required by law</li> <li>• if affected person consents</li> <li>• by order of Minister for public health purposes</li> <li>• for research purposes</li> </ul>	<ul style="list-style-type: none"> <li>• if affected person consents</li> <li>• for purposes for which the information was collected</li> <li>• to protect the health or safety of the public or a person</li> <li>• for research purposes</li> <li>• where required or authorized by law</li> <li>• in the public interest</li> </ul>
Review of decisions	No provision	Ombudsman
<b>Sharing:</b>		
with the provinces	Yes, in connection with an agreement made to protect public health.	No provision
with the federal gov't	Yes, in connection with an agreement made to protect public health.	No provision

## Nova Scotia

	<b><i>Public health legislation and regulations</i></b>				<b><i>Privacy/PIP legislation</i></b>
<b>Priority</b>	No provision				No provision
<b>Collection</b>					<ul style="list-style-type: none"> <li>expressly authorized by law; or</li> <li>necessary for the activity of a public body</li> </ul>
<b>Mandatory reporting:</b>	Communicable diseases	Sexually transmitted diseases	Tuberculosis	Tuberculosis (confirmed cases)	
Who reports	<ul style="list-style-type: none"> <li>Physicians</li> <li>Persons in charge of a residence or labour camp</li> <li>Teachers</li> <li>Laboratories</li> <li>Others caring for a patient</li> </ul>		<ul style="list-style-type: none"> <li>Physicians</li> <li>Persons in charge of a residence or labour camp</li> <li>Teachers</li> <li>Laboratories;</li> <li>Others caring for a patient</li> <li>Heads of health care institutions</li> <li>Deputy Registrars</li> </ul>	<ul style="list-style-type: none"> <li>Physicians</li> <li>Radiologists</li> </ul>	N/A
To whom	<ul style="list-style-type: none"> <li>Medical Health Officer; and</li> <li>Health board</li> </ul>		<ul style="list-style-type: none"> <li>Medical Health Officer; and</li> <li>Health board</li> </ul>	<ul style="list-style-type: none"> <li>Director of health district</li> </ul>	N/A
Who receives	Ministry of Health				N/A
Duty to inform concerned person of purposes for which info will be used	No				No
What information	Identifiable (including name, age and address).	Identifiable (including the name and address).	Identifiable (including name, age, address and occupation).	Identifiable (including results of examinations).	N/A
<b>Investigative powers:</b>					

## Nova Scotia

	<b>Public health legislation and regulations</b>			<b>Privacy/PIP legislation</b>
General:	<ul style="list-style-type: none"> <li>• The Deputy Minister of Health has the powers of a commissioner appointed under the <i>Public Inquiries Act</i>,</li> <li>• The Provincial Epidemiologist may require that the Red Cross provide him with any information regarding donated blood; he also has access to all of a hospital's medical records.</li> </ul>			N/A
Specific:				N/A
Inspection of premises	Yes			N/A
Requiring person to submit to medical exam	A pupil	Yes		N/A
Samples	No provision			N/A
<b>Retention:</b>				
Confidentiality	No provision	Yes		Yes
Registry	Yes. Established by Medical Health Officer.	Yes. Established by Medical Health Officer. In addition, physicians and heads of institutions must establish a registry of STDs under their supervision.	Yes. Established by Medical Health Officer.	No provision

## Nova Scotia

	<i>Public health legislation and regulations</i>		<i>Privacy/PIPIA legislation</i>	
<b>Disclosure:</b>	<ul style="list-style-type: none"> <li>by placarding the home of the infected person.</li> </ul>		<ul style="list-style-type: none"> <li>access to the tuberculosis register is restricted to health authorities and the information therein must not be disclosed except as necessary for the protection of the public</li> </ul>	<ul style="list-style-type: none"> <li>if the affected person consents</li> <li>for the purposes for which the information was obtained or for a consistent purpose</li> <li>where required or authorized by law</li> <li>where required by an agreement made pursuant to a law</li> <li>where there are compelling circumstances affecting the health or safety of a person</li> <li>for research purposes or statistical use</li> <li>to an employee of a public body in the performance of her duties</li> <li>where there is a danger to the health or safety of the public or a group</li> <li>in the public interest</li> </ul>
Supervisory power	No provision		The Governor in Council appoints a person responsible for review and that person can rule on applications to review a decision of a public body.	
<b>Sharing</b>				
with the provinces	No provision		No provision	
with the federal gov't	No provision		No provision	

## Ontario

	<b>Public health legislation and regulations</b>		<b>Privacy/PIIP legislation</b>
<b>Priority</b>	No provision		No provision
<b>Collection</b>			<ul style="list-style-type: none"> <li>• expressly authorized by law; or</li> <li>• necessary to carry out an activity authorized by law</li> </ul>
<b>Mandatory reporting:</b>	Communicable diseases	Reportable diseases	
Who reports	<ul style="list-style-type: none"> <li>• Physicians</li> <li>• Hospital directors</li> <li>• Institution superintendents</li> <li>• Principals</li> <li>• Persons in medical charge of institutions</li> </ul>	<ul style="list-style-type: none"> <li>• Health professionals</li> <li>• Hospital directors</li> <li>• Institution superintendents</li> <li>• Laboratory operators</li> </ul>	N/A
To whom	Medical Officer of Health		N/A
Who receives		Ministry of Health	N/A
Duty to inform affected person	No provision		Yes, unless the Minister grants an exemption.
What information	Identifiable (including name, address, birth date and sex). Additional info required for certain designated diseases.		N/A
<b>Investigative powers</b>			
General:	<ul style="list-style-type: none"> <li>• powers of a commission under <i>Public Inquiries Act</i>.</li> </ul>		N/A
Specific:			N/A
Inspection of premises	Yes, except private dwelling where occupant does not consent	No provision	N/A
Requiring person to submit to medical exam	Yes	No provision	N/A
Samples	Yes	No provision	N/A
<b>Retention:</b>			
Confidentiality	Yes		
Registry	No provision		



## Ontario

	<b><i>Public health legislation and regulations</i></b>		<b><i>Privacy/PIPIA legislation</i></b>
<b>Disclosure:</b>	<ul style="list-style-type: none"> <li>• the affected person consents</li> <li>• for the administration of public health legislation</li> <li>• for the administration of public health</li> <li>• to another Medical Officer of Health</li> </ul>	<ul style="list-style-type: none"> <li>• the affected person consents</li> <li>• for the administration of public health legislation</li> <li>• for the administration of public health</li> <li>• to another Medical Officer of Health</li> <li>• to a public health official</li> </ul>	<ul style="list-style-type: none"> <li>• the affected person consents</li> <li>• for the purposes for which it was collected or consistent purposes</li> <li>• to an employee of an institution in the performance of her duties</li> <li>• where required by a provincial or federal enactment</li> <li>• where required by an agreement made pursuant to a provincial or federal enactment</li> <li>• where there is an emergency affecting the health or safety of a person</li> <li>• where there is serious danger to public health or safety</li> </ul>
Review of decisions	No provision		The Information and Privacy Commissioner may rule on an application to review a decision of a public body.
<b>Sharing:</b>			
with the provinces	No provision		No provision
with the federal gov't	No provision		No provision

## Quebec

	<b>Public health legislation and regulations</b>		<b>Privacy/PIP legislation</b>
<b>Priority</b>	No provision		No provision
<b>Collection:</b>			<ul style="list-style-type: none"> <li>limited to relevant information to the stated objective in the matter</li> </ul>
<b>Mandatory reporting:</b>	Threat to health of population	Reportable diseases	
Who reports	<ul style="list-style-type: none"> <li>Ministries</li> <li>Government bodies</li> <li>Municipalities</li> <li>Physicians</li> <li>Directors of institutions</li> <li>Health and social services establishments</li> </ul>	<ul style="list-style-type: none"> <li>Physicians</li> <li>Laboratory directors</li> </ul>	N/A
To whom	<ul style="list-style-type: none"> <li>Public health director</li> </ul>		N/A
Who receives	<ul style="list-style-type: none"> <li>National director of public health</li> </ul>		N/A
Duty to inform concerned person of purposes for which info will be used	No		No
What information	Personal information only if the public health authority requires it	Identifiable (including name, sex, age, address and health insurance number).	N/A
<b>Investigative powers:</b>			
General	<ul style="list-style-type: none"> <li>Powers of a commissioner appointed under the <i>Act respecting public inquiry commissions</i></li> <li>In a health emergency, the Minister may require any personal information</li> </ul>		N/A
Specific:			N/A
Inspection of premises	Yes, and where it is a private dwelling, one of the following is needed: <ul style="list-style-type: none"> <li>the consent of the occupant; or</li> <li>a court order.</li> </ul>		N/A

## Quebec

	<b>Public health legislation and regulations</b>	<b>Privacy/PIP legislation</b>	
Require medical exam	Yes, with <ul style="list-style-type: none"> <li>the consent of the person concerned; or</li> <li>a court order</li> </ul>	N/A	
Samples	Yes, with <ul style="list-style-type: none"> <li>the consent of the person concerned; or</li> <li>a court order</li> </ul>	N/A	
<b>Retention:</b>			
Confidentiality	Yes		
Registry	Yes		
<b>Disclosure</b>	<ul style="list-style-type: none"> <li>on the order of a court or a Coroner;</li> <li>if the concerned person consents;</li> <li>to a public health director as part of an investigation or if there is a threat to health in the director's area;</li> <li>to a government department, a local municipality, a body, a health and social services institution or to the national public health director or the Minister, in the exercise of their functions;</li> <li>if the national public health director believes on reasonable grounds that the health of the population is threatened.</li> </ul>	<b>Private sector:</b> <ul style="list-style-type: none"> <li>if the concerned person consents;</li> <li>where required or authorized by law</li> <li>to a public body that collects such information in the exercise of its functions;</li> <li>where a situation threatens the life, health or safety of the person concerned;</li> <li>for research or statistical purposes.</li> </ul>	<b>Public sector:</b> <ul style="list-style-type: none"> <li>if the concerned person consents;</li> <li>where required or authorized by provincial law</li> <li>to a public body when required in the exercise of its functions;</li> <li>where justified by exceptional circumstances, with the approval of the Commission d'accès à l'information or the government.</li> </ul>
Review of decisions	No provision	The Commission d'accès à l'information can rule on applications for review pursuant to the <i>Act respecting the protection of personal information in the private sector</i> and the <i>Act respecting access to documents held by public bodies and the protection of personal information</i> .	
<b>Sharing:</b>			
with the provinces	Yes	No	

## Quebec

	<b><i>Public health legislation and regulations</i></b>	<b><i>Privacy/PIP legislation</i></b>
with the federal gov't	Yes	No
<b>Other</b>	<p>The Minister of Health and public health directors may require the following to provide the non-identifiable information required for the surveillance plan:</p> <ul style="list-style-type: none"> <li>• physicians</li> <li>• medical laboratories (public or private)</li> <li>• health and social services institutions</li> <li>• any department</li> <li>• any body</li> </ul>	<p>Where information is disclosed for the purposes of the <i>Public Health Act</i>, it comes under an exception to the general rule that a medical file is confidential.</p>

## Saskatchewan

	<b>Public health legislation and regulations</b>		<b>Privacy/PIIP legislation</b>
<b>Priority</b>	The provisions of the <i>Health Information Act</i> regarding the disclosure of information do not apply to information obtained pursuant to the <i>Public Health Act</i> .		No provision
<b>Collection:</b>			<ul style="list-style-type: none"> <li>• must be for a purpose related to an activity of the body collecting the information</li> </ul>
<b>Mandatory reporting:</b>	Communicable diseases (Category I)	Communicable diseases (Category II)	
Who reports	<ul style="list-style-type: none"> <li>• Health professionals</li> <li>• Laboratory directors</li> <li>• Teachers and principals</li> <li>• Persons in charge of establishments where food is prepared</li> </ul>	<ul style="list-style-type: none"> <li>• Affected person must report to health professional</li> <li>• Health professionals</li> <li>• Laboratory directors</li> </ul>	N/A
To whom	Medical Officer of Health		N/A
Who receives	Coordinator of infectious disease control (Dept. of Health)		N/A
Duty to inform concerned person of purposes for which info will be used	No		Yes, unless <ul style="list-style-type: none"> <li>• exempted by regulation</li> <li>• defeats the purpose of collection</li> </ul>
What information	Identifiable (including name, sex, age, address and phone number).	Identifiable (including the names of contacts and where reach them).	N/A
<b>Investigative powers:</b>			
General:	<ul style="list-style-type: none"> <li>• Medical Health Officer may ask anyone to comply with an order</li> <li>• In an emergency or where there is a serious threat to public health, the Minister may ask anyone for information.</li> </ul>		N/A
Specific:			N/A
Inspection of premises	No provision		N/A
Requiring person to submit to medical exam	Yes		N/A

## Saskatchewan

	<i><b>Public health legislation and regulations</b></i>	<i><b>Privacy/PIPIA legislation</b></i>
Samples	Yes	N/A
<b>Retention:</b>		
Confidentiality	Yes	Yes
Registry	No provision	No provision
<b>Disclosure</b>	<ul style="list-style-type: none"> <li>• where necessary for the administration of public health laws</li> <li>• where required by law</li> <li>• if the affected person consents</li> <li>• by order of the Minister for the purpose of protecting public health</li> <li>• for research purposes.</li> </ul>	<ul style="list-style-type: none"> <li>• if the affected person consents</li> <li>• for the purposes for which the information was collected</li> <li>• pursuant to an agreement between the governments of Saskatchewan and of Canada, a province or a foreign jurisdiction</li> <li>• where required by a provincial or federal enactment</li> <li>• where required by an agreement signed pursuant to a provincial or federal</li> <li>• for research purposes or statistical use</li> <li>• to protect the health or safety of a person</li> <li>• in the public interest</li> <li>• where authorized by a provincial law.</li> </ul>
Review of decisions	No provision	The information and privacy commissioner may rule on an application to review a decision made by a public body.
<b>Sharing:</b>		
with the provinces	Yes	Yes, pursuant to an agreement.
with the federal gov't	Yes	Yes, pursuant to an agreement
<b>Other</b>	<ul style="list-style-type: none"> <li>• If a person contracts a communicable disease at work, the occupational health and safety director must be given identifiable information</li> <li>• When an infected person has received or donated blood, an identifiable report is sent to Canadian Blood Services.</li> </ul>	

## Newfoundland and Labrador

	<b>Public health legislation and regulations</b>		<b>Privacy/PIP legislation</b>	
			<i>Freedom of Information Act</i>	<i>Access to Information and Protection of Privacy Act</i> (not proclaimed in force)
<b>Priority</b>	No provision		No provision	
<b>Collection:</b>			No provision	<ul style="list-style-type: none"> <li>• expressly authorized by law; or</li> <li>• necessary to carry out an activity of the public body</li> </ul>
<b>Mandatory reporting:</b>	Communicable diseases	Sexually transmitted diseases		
Who reports	<ul style="list-style-type: none"> <li>• Physicians;</li> <li>• Hotel-keepers, etc.</li> <li>• Heads of hospitals</li> <li>• Teachers</li> <li>• Dairypersons</li> <li>• Laundry owners.</li> </ul>	<ul style="list-style-type: none"> <li>• Affected person must consult a physician</li> <li>• Physicians</li> <li>• Hotel-keepers, etc</li> <li>• Heads of hospitals and sanatoria</li> <li>• Teachers</li> <li>• Dairypersons</li> <li>• Laundry owners</li> <li>• Persons in charge of labs</li> <li>• Heads of institutions</li> </ul>	N/A	N/A
To whom	<ul style="list-style-type: none"> <li>• Public health official; or</li> <li>• Deputy Minister</li> </ul>	Minister of Health	N/A	N/A
Who receives			N/A	N/A
Duty to inform concerned person of purposes for which info will be used	No		N/A	N/A
What information	Identifiable (including name, age, sex and address).		N/A	N/A
<b>Investigative powers:</b>				
General:	Powers conferred by the <i>Public Inquiries Act</i> .		N/A	N/A

## Newfoundland and Labrador

	<i>Public health legislation and regulations</i>		<i>Privacy/PIPIA legislation</i>	
Specific:			N/A	N/A
Inspection of premises	Yes		N/A	N/A
Requiring person to submit to medical exam	Yes		N/A	N/A
Samples	No provision		N/A	N/A
<b>Retention:</b>				
Confidentiality	No provision	Yes	Yes	Yes
Registry	No provision		No provision	No provision
<b>Disclosure:</b>	<ul style="list-style-type: none"> <li>• to the person in charge of the patient's accommodations</li> </ul>	<ul style="list-style-type: none"> <li>• by a person carrying out his duties under the <i>Venerable Disease Prevention Act</i>,</li> <li>• on the instruction of a Medical Health Officer</li> <li>• on the instruction of the Minister of Health</li> <li>• to persons living with an infected person.</li> </ul>	<ul style="list-style-type: none"> <li>• where authorized by an enactment.</li> </ul>	<ul style="list-style-type: none"> <li>• if the affected person consents</li> <li>• where there are compelling circumstances affecting the health or safety of a person</li> <li>• where authorized by a provincial or federal enactment</li> <li>• for research purposes or statistical use</li> <li>• for the purposes for which the information was obtained</li> <li>• where required by a provincial or federal enactment</li> </ul>



## Newfoundland and Labrador

	<i>Public health legislation and regulations</i>		<i>Privacy/PIP legislation</i>	
<b>Disclosure:</b> (cont'd)				<ul style="list-style-type: none"> <li>• where required by an agreement made pursuant to a provincial or federal enactment</li> <li>• to the employee of an institution in the performance of her duties</li> <li>• if there is a threat to public health or safety</li> <li>• in the public interest</li> </ul>
Review of decisions	No provision			The Information and Privacy Commissioner may rule on an application to review the decision of a public body.
<b>Sharing:</b>				
with the provinces	Yes, as part of an agreement on emergency measures.		No provision	No provision
with the federal gov't	Yes, as part of an agreement on emergency measures.		No provision	No provision
<b>Other:</b>	<ul style="list-style-type: none"> <li>• Infected persons must not be in a public place until they have consulted a physician or public health official.</li> </ul>			

## Northwest Territories and Nunavut

	<b>Public health legislation and regulations</b>	<b>Privacy/PIP legislation</b>		
<b>Priority</b>	In the NWT, the <i>Disease Registries Act</i> prevails over the <i>Access to Information and Protection of Privacy Act</i> . Nunavut has no rule as to the priority.	No provision		
<b>Collection:</b>		<ul style="list-style-type: none"> <li>• expressly authorized by an enactment; or</li> <li>• necessary for an activity of the public body</li> </ul>		
<b>Mandatory reporting:</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Communicable diseases</td> <td style="width: 50%;">Sexually transmitted diseases</td> </tr> </table>	Communicable diseases	Sexually transmitted diseases	
Communicable diseases	Sexually transmitted diseases			
Who reports	Every person, including <ul style="list-style-type: none"> <li>• The infected person, who must report to a physician</li> <li>• Health care professionals.</li> </ul>	N/A		
To whom	<ul style="list-style-type: none"> <li>• Chief Medical Health Officer</li> </ul>	N/A		
Who receives	<ul style="list-style-type: none"> <li>• Registrar (for health care professionals).</li> </ul>			
Duty to inform concerned person of purposes for which info will be used	No	No		
What information	Identifiable (including name, address, sex and age) and contacts.	N/A		
<b>Investigative powers:</b>				
General:	Health officers (including MHOs) have all the powers of a peace officer.	N/A		
Specific:		N/A		
Inspection of premises	Yes	N/A		
Requiring person to submit to medical exam	Yes	N/A		
Samples	No provision	N/A		
<b>Retention:</b>				
Confidentiality	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Covers information in the register of notifiable diseases.</td> <td style="width: 50%;">Yes</td> </tr> </table>	Covers information in the register of notifiable diseases.	Yes	Yes
Covers information in the register of notifiable diseases.	Yes			
Registry	Yes (notifiable diseases and tests).	No provision		

## Northwest Territories and Nunavut

	<b><i>Public health legislation and regulations</i></b>		<b><i>Privacy/PIP legislation</i></b>
<b>Disclosure</b>	<ul style="list-style-type: none"> <li>• by placing a warning notice at the residence of an infected person</li> <li>• to a health care professional for a person's treatment</li> <li>• for research purposes</li> </ul>	<ul style="list-style-type: none"> <li>• if the information custodian's duty so requires</li> </ul>	<ul style="list-style-type: none"> <li>• for the purposes for which the information was obtained</li> <li>• if the affected person consents</li> <li>• to an employee of a public body in the performance of her duties</li> <li>• where required by a territorial or federal enactment</li> <li>• where required by an agreement made pursuant to a territorial or federal enactment</li> <li>• to protect the safety or the physical or mental health of an individual</li> <li>• in the public interest.</li> </ul>
Review of decisions	No provision		The information and privacy commissioner may rule on an application to review the decision of a public body.
<b>Sharing:</b>			
with the provinces	Yes, as part of an agreement governing the exchange of information contained in the register.		No provision
with the federal gov't	Yes, as part of an agreement governing the exchange of information contained in the register.		No provision
<b>Other</b>	The Registrar, the Minister and his representatives may use information from the disease register to monitor patterns and reduce the incidence of diseases.		

## Yukon

	<b>Public health legislation and regulations</b>	<b>Privacy/PIIP legislation</b>	
<b>Priority</b>	No provision	No provision	
<b>Collection:</b>		<ul style="list-style-type: none"> <li>• where expressly authorized by law; or</li> <li>• where necessary for an activity of a public body</li> </ul>	
<b>Mandatory reporting:</b>	Communicable diseases	Sexually transmitted diseases	
Who reports	Every person <ul style="list-style-type: none"> <li>• The infected person, who must report to a physician;</li> <li>• Physicians.</li> </ul>	Every person, including: <ul style="list-style-type: none"> <li>• The infected person, who must report to a physician</li> <li>• Physicians</li> <li>• Hospital and sanatorium directors</li> <li>• Laboratory directors</li> <li>• Persons in medical charge of institutions.</li> </ul>	N/A
À qui	Medical Officer of Health	<ul style="list-style-type: none"> <li>• Commissioner; and</li> <li>• Medical Health Officer</li> </ul>	N/A
Who receives	Chief Medical Officer of Health		
Duty to inform concerned person of purposes for which info will be used	No	Yes, unless the Minister grants an exemption.	
What information	No provision	N/A	
<b>Investigative powers:</b>			
General:	Heath officers (including MHOs) have all the powers of a peace officer.		
Specific:		N/A	
Inspection of premises	Yes	N/A	
Requiring person to submit to medical exam	Yes	N/A	
Samples	Yes	N/A	

## Yukon

	<b><i>Public health legislation and regulations</i></b>	<b><i>Privacy/PIP legislation</i></b>
Retention:		
Confidentiality	<i>No provision</i>	Yes
Registry	Yes	No provision
<b>Disclosure</b>	<ul style="list-style-type: none"> <li>• by placarding the home of an infected person</li> <li>• to the infected person's contacts</li> </ul>	<ul style="list-style-type: none"> <li>• in accordance with the law</li> <li>• by order of the Medical Health Officer</li> <li>• by order of the commissioner</li> </ul>
		<ul style="list-style-type: none"> <li>• for the purposes for which the information was obtained or for consistent purposes</li> <li>• if the affected person consent</li> <li>• where required by a territorial or federal enactment</li> <li>• where required by an agreement made pursuant to a territorial or federal enactment</li> <li>• to an employee of a public body in the performance of her duties</li> <li>• where there are compelling circumstances affecting a person's health or safety</li> <li>• for research purposes or statistical use</li> <li>• where there is a serious danger to the health or safety of the public or a group</li> </ul>
Review of decisions		The ombudsman acts as information/privacy commissioner and may rule on an application for the review of a decision of a public body.
<b>Sharing:</b>		
with the provinces	Yes, as part of an agreement on the implementation of a civil emergency plan.	No provision
with the federal gov't	Yes, as part of an agreement on the implementation of a civil emergency plan.	No provision
<b>Other</b>	If a health officer suspects a danger to public health or safety, she must notify the Minister of Health and the mayor of the affected municipality.	

## **APPENDIX B**

### **Disclosure of Personal Information Authorized by Law**

**Disclosure of Personal Information Authorized by Law**

	Alta.	B.C.	P.E.I.	Man.	N.B.	N.S.	Ont.	Que.	Sask.	Nfld./Lab.	N.W.T.	Nun.	Y.T.
With consent	√	√	√	√	√	√	√	√	√	√	√	√	√
Where required by law					√			√ (private)					
When authorized by prov/terr enactment	√	√	√	√		√	√	√ (public)	√	√		√	√
When required by federal enactment	√	√	√	√		√	√		√	√		√	√
When authorized by prov/terr enactment	√	√	√	√		√			√				
When authorized by federal enactment	√	√	√	√		√							
When required by agreement made pursuant to prov/terr/fed enactment		√	√	√		√	√		√			√	√
When authorized by agreement made pursuant to prov./terr/fed. enactment		√							√				
For purposes for which info was collected or for consistent purposes		√	√		√	√	√		√			√	√
To public institution or body or employees thereof in performance of their duties		√	√			√	√	√				√	√
To avert or minimize imminent danger to health of safety of a person	√		√	√			√		√				

	Alta.	B.C.	P.E.I.	Man.	N.B.	N.S.	Ont.	Que.	Sask.	Nfld./Lab.	N.W.T.	Nun.	Y.T.
To avert or minimize imminent danger to health or safety of public		√	√	√		√	√						√
Where compelling circumstances likely to affect health or safety of person		√	√			√							
To protect health or safety of a person								√ <sup>1</sup>				√	√
To protect health or safety of the public								√					
In the interests of the person concerned			√										
In the public interest	√	√	√			√			√			√	
By direction or order of the Minister, a Medical Officer of Health or the Commissioner		√ (MST)			√ <sup>2</sup>				√	√			√
When necessary for administration of public health legislation	√				√		√		√	√			
For public health surveillance purposes	√												
Between various public health authorities	√			√			√	√					
By placarding						√ (CD)					√ (CD)	√ (CD)	√ (CD)



	Alta.	B.C.	P.E.I.	Man.	N.B.	N.S.	Ont.	Que.	Sask.	Nfld./Lab.	N.W.T.	Nun.	Y.T.
Disclosure to entourage			√ <sup>3</sup>							√ <sup>4</sup>			√ <sup>5</sup>
For research purposes		√	√	√	√	√		√ (private)	√		√ (CD)	√ (CD)	√ (CD)
For statistical use		√	√			√		√ (private)	√				√
Where exceptional circumstances justify disclosure								√					

Explanatory notes:

STD: Sexually transmitted disease

CD: Communicable disease

- 1 To protect the health or safety of the subject of the information.
- 2 For public health purposes.
- 3 To family members.
- 4 To the person in charge of the infectious disease patient's accommodations and to individuals living with person who has an STD.
- 5 To the contacts of a person infected by a communicable disease.