

# ***The Health Information Protection Act***

## **Quick Reference Sheet**

### General

*The Health Information Protection Act* legislates rights of individuals and obligations of the “trustees” in the health system with respect to personal health information. It applies to personal health information in the health system in any form, including paper records and electronic records in the Saskatchewan Health Information Network (SHIN).

The basic goal of the legislation is to provide individuals with certainty of protection for privacy of personal health information, while at the same time ensuring that information is available as needed to provide services and to monitor, evaluate and improve the health system in Saskatchewan for the benefit of individuals and the province.

### What the Act does

- The Act identifies a series of rights that individuals have in regard to their personal health information, including:
  - the right to consent to the use and disclosure of personal health information except as otherwise authorized by the Act;
  - the right to prevent disclosure of any “visionary” comprehensive electronic health records on SHIN;
  - the right to access records about themselves;
- It establishes a common set of rules that emphasize the protection of privacy, while ensuring that information is available to provide efficient health services.
- It applies to all key stakeholders in the health system defined as “trustees” including: government institutions, regional health authorities and affiliates, special care homes, personal care homes, mental health facilities, laboratories, pharmacies, community clinics, the Saskatchewan Cancer Agency, ambulance operators, regulated health professions, and health profession regulatory bodies.
- The Act applies to “personal health information” defined as information about the mental or physical health of an individual, which is identifiable to that individual. It does not apply to de-identified information, statistical or aggregate data, or administrative data contained in the health system.
- The Act applies to personal health information held by any trustee in Saskatchewan, regardless of format. All parts of the Act apply equally to all media including paper, microfilm, x-rays and electronic records.

- The Act identifies a number of duties trustees have to protect personal information including requiring that trustees comply with regulations regarding retention and safe disposal of health records.
- The Act requires a legal agreement between trustees and information management service providers such as SHIN, ISM or CGI. The agreement must address all aspects of the service provided to the trustee including ensuring protection for the information and clearly stating that the trustee retains all responsibility for decisions about the personal health information.
- HIPA provides rules for the collection, use and disclosure of personal health information. Specifically, it provides for disclosure with express consent for any reason, with deemed consent for limited reasons (mostly related to the provision of services), and without consent for limited reasons listed in the *Act*.
- Where consent is deemed to exist for the use and disclosure of personal health information, HIPA places additional responsibilities on trustees to ensure information is used appropriately and only as necessary to provide the care. Trustees are required to establish policies and procedures where consent is deemed to exist to restrict the disclosure of personal health information to only those people who need to know the information to carry out the purpose for which the information was collected. And in those cases where the trustee is a health professional the use and disclosure of personal health information by the trustee must be only within the ethical practices of the health profession.
- The Act legislates an individual's right to access information about themselves held by any trustee in the health system. It provides rules for amendments to that information contained in the records of a trustee.
- The Act names the existing office of the Information and Privacy Commissioner to handle complaints and monitor enforcement of the legislation.
- Section 63 of the Act places limits on a government's ability to make certain regulations by requiring significant consultations before they can proceed.
- Section 65 establishes significant penalties for offences under the *Act*. Individuals (including officers and directors of a corporation) can be punished by a fine of up to \$50,000, one year imprisonment, or both. A corporation can be fined up to \$500,000.
- *The Health Information Protection Act* is in force as of September 1, 2003.