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Your Health Information and Your Privacy in Our Office



Information and Privacy
Commissioner/Ontario



OBA • ABO

Ontario Bar Association
Association du Barreau de l'Ontario



YOUR HEALTH INFORMATION AND YOUR PRIVACY IN OUR OFFICE

Protecting your privacy has always been important. Now the Ontario health privacy law requires anyone that provides you with health services to protect your personal health information. They have to tell you what they do with it, and in certain situations, ask permission before they get it, use it or give it out. A health care provider is not allowed to collect personal health information where it is not necessary or to collect, use or give out **more** information than is necessary. The law also gives you the right to see the information and to ask for it to be changed or corrected if you think there is an error or inaccuracy in the record.

The Information and Privacy Commissioner of Ontario has responsibility for educating the public about their privacy rights. The Commissioner also oversees compliance and hears and decides complaints.

As part of our privacy program, we have a Privacy Statement and this Privacy Brochure. This Brochure describes our privacy practices and tells you how you can exercise your rights.

For more information, please see our Contact Person whose name is at the end of this Brochure.

WHO CAN USE AND SEE YOUR PERSONAL HEALTH INFORMATION

Implied Consent to Use and Give Out Your Information in Order to Provide You with Health Care

When you seek health care from us, we assume that we have your permission to collect, use and share your personal health information among your health care providers who provide or assist in providing health care to you. We may also give your personal health information to your other health care providers outside of this office so they can provide you with ongoing health care and follow-up.

Health care providers who do not provide or assist you with health care are generally not allowed to see your health information.

You should let us know if you do not want us to use, share or give out some or all of your personal health information to people who provide you with health care.

Express Consent to Give out Your Information to Other People

Sometimes we are not allowed to assume we have your permission to give personal health information about you to others. For example, except where the law allows otherwise, we must ask your permission to give your personal health information to:

- (a) people who do not provide you with health care, like your insurance company or your employer; or
- (b) to a health care professional for reasons other than providing you with health care.

People outside the health system who receive your personal health information can only use it or give it out for the reasons that they received it or as allowed or required by law.

You may have other family or friends to whom you would like us to give more detailed information about your health, like how your treatment is working or what kind of care you will need at home. You can let us know if we can discuss your health with family and friends. Let us know if you would like us to give more detailed information about your health to someone.

Limits on Using and Giving Out Your Personal Health Information

In some circumstances, you can tell us not to use, share or give out some or all of your personal health information to other people who provide you with health care. If you choose to limit how we give out some or all of your personal health information, you should be aware that when we give out your personal health information to others, we are required to tell them when we think the information is inaccurate or incomplete, including when we think the missing information could affect your health care.

For more information, please speak to our Contact Person whose name is at the end of this Brochure.

When Your Consent is Not Required

We are allowed or may be required to use and/or give out some of your personal health information without consent in the following situations:

- to process payments through government programs, like the Ontario Health Insurance Plan (“OHIP”)
- to report certain information, such as a health condition that makes you unfit to drive or to report certain diseases to public health authorities
- when we suspect certain types of abuse
- to identify a person who has died
- to give the spouse or child of the person who has died personal health information to assist them in making decisions about their own care
- to reduce a significant risk of serious bodily harm to a person or the public
- to give information to certain registries or planning bodies that use personal health information to improve health care services or health system management, as long as strict privacy protections are in place



- to assist health researchers for research, as long as strict privacy requirements are met
- to improve or maintain the quality of care or any related program or service
- for risk management and legal purposes
- to allocate resources to our programs and services
- to transfer or sell the professional practice to another person and to allow that person to assess the practice, so long as he or she signs an agreement to keep the information confidential and secure
- to assess a person's ability to make health care and other important decisions
- for administration or enforcement of laws about the practices of health care providers, such as to allow professional Colleges and other legal bodies to regulate the practices of health care professionals
- for the purpose of a legal proceeding or complying with a court order, or other legal requirement

People Who Can Make Decisions for You

We will presume that you are able to make your own decisions about your personal health information. If we determine that you cannot, another person, usually a family member, will be asked to make decisions for you. The law tells us who to turn to first on a list of “substitute decision-makers”. For example, if you have a substitute decision-maker for treatment, that person will

make decisions about your health information that is related to that treatment. Since a substitute decision-maker needs information about a person's health to make these kinds of decisions, our office can give them that kind of information. Your substitute decision-maker can also ask us to see your records and our staff will give him or her information about your health.



We will ask for your consent, or your substitute decision-maker's consent, before giving your personal health information to your other family members. You may also decide in advance who should act as your substitute decision-maker when you are no longer capable to make these decisions.

Your Health Number

The number on the front of your Ontario Health Insurance Plan, or “OHIP,” card is your “health number” and is a special kind of health information, with special rules:

- Only people and organizations that provide you with health care or goods or services funded by Ontario, like health care covered by OHIP, can require you to show your **health card**
- A health care provider can collect, use and give out your **health number**, in order to treat you and to get paid by OHIP
- People outside the health system can only collect, use, and give out your **health number** as health privacy law allows. For example, they may collect and use a health number for a purpose related to providing health care or goods funded by OHIP. School boards and daycare centres may collect children's health numbers for this purpose. They may also collect a **health number** from a health care provider and use the number for the purpose for which the provider gave the number.
- You can choose to use your **health card** as identification. For example, to identify yourself so you can get a library card



MARKETING

The law protects you by making sure your health information is never shared for marketing purposes unless you want it to be. For example, if your

health care provider knows that a particular medical device could help you, they would have to ask you before giving your name to someone who wanted to sell you the device.

RESEARCH, EDUCATION AND HEALTH SYSTEM PLANNING

Research

Your personal health information may be used for research projects, including those that are designed to improve health care. Sometimes, we will ask you

before we give your personal health information to researchers. However, with some research projects, an independent ethics review board will look at the goals and benefits of the research, the safeguards for your information and whether it would be impractical to ask for your consent. If the researcher meets these and other tests, your consent may not be required. If that happens, researchers are not allowed to use your personal health information for any other purpose and will not contact you unless you have said they can. Sometimes, a research ethics board will require us to have your consent before we can give information about you to a researcher.

Education, Planning and Management

We are allowed to use your personal health information without your consent to educate our staff and students and to plan and manage the services and programs we offer. We use personal health information for risk management and error management and for other activities to improve or maintain the quality of the care we provide.

Planning and Management of the Health Care System

We are allowed to give your personal health information to certain organizations that are responsible for planning and managing the health care system. These organizations compile personal health information to help study and plan the delivery of health care. Currently, the law allows us to give your personal health information to:

- **Cancer Care Ontario**, the Ministry of Health's principal advisor on cancer issues, which manages the Ontario Cancer Registry and other cancer care programs.
- **The Canadian Institute for Health Information**, an independent organization that maintains statistics and analysis about the performance of the Canadian health care system, the delivery the health care services and the status of Canadians' health.
- **The Institute for Clinical Evaluative Sciences**, an independent organization that does research to improve health care and the delivery of health care services.
- **The Pediatric Oncology Group of Ontario**, which works to ensure that all of Ontario's children have access to advanced diagnosis, treatment and other cancer care services.



Facilitating Health Care

We are also allowed to give your personal health information to certain organizations that gather health information to improve and make health care delivery easier. These organizations carry out important work, such as keeping track of which people need special health care services, like treatment for a particular disease, to make sure they get the care they need.

If relevant, we can give your personal health information to:

- **Cardiac Care Network of Ontario**, an advisory body to the Ontario Ministry of Health and Long-Term Care which coordinates all advanced cardiac services for adults throughout Ontario, and maintains a registry of cardiac services for this purpose.
- **Inscyte Corporation**, an information system that manages health care services for cervical disease.
- **London Health Sciences Centre**, which maintains the **Ontario Joint Replacement Registry** to collect data on hip and knee joint replacements.
- **Canadian Stroke Network**, which maintains the Canadian Stroke Registry and conducts research and training to reduce the impact of stroke.

Seeing Your Information

You have a right to see your personal health information and to get a copy of it by asking us for it, or by writing to us, and paying a reasonable fee.

Some exceptions may apply. For example, when the information relates to law enforcement, legal proceedings or another individual, you may not get to see the record.

We must respond to your request as soon as possible and within 30 days. There may be a delay if we have to ask others about the records or it will take time to find the record. You have the right to be notified of such delays. If you require the record urgently, we must consider responding as soon as possible.

Correcting Your Record

Once you have seen your record of personal health information, if you believe it is inaccurate or incomplete, you may write to us and ask for a correction.

We must reply to your request within 30 days, or later if it is reasonable to do so. You are entitled to be told how long it will take to get back to you if it is longer than 30 days.

We may not correct a record that was created by someone else and we do not know enough about the record to change it or where, for example, the opinions or observations in the record were made in good faith. You are entitled to be told the reasons for not making a correction and of your right to have a statement of disagreement attached to your records. You can also ask to have this statement made available to those who see the record.

Where we correct a record, it must be done carefully so that the full corrected record remains visible or by ensuring that the corrected version is readily available.



If we do not respond to your request quickly enough, or at all, or if we do not give you access to the record, or charge more than is allowed, you may complain to the Information and Privacy Commissioner of Ontario and they will review the matter. You may also complain if we refuse to correct your records or attach a statement of disagreement, or if you believe that the correction was not done properly.

WHO YOU CAN TALK TO ABOUT YOUR DECISIONS OR CONCERNS

Our Contact Person

- If you have a question about our privacy policies and practices in handling your personal health information
- If you would like to see our Privacy Policy Statement that describes what we do and our safeguards in greater detail
- If you wish to talk to someone about your health information, or you want to know more about how to consent, withdraw consent or withhold consent to part of your personal health information being given out to someone else
- If you want to see your personal health information or to correct it
- If you are wondering about something that may have happened to your personal health information, and need more detailed information

Please speak to our Contact Person whose name is at the end of this Brochure

Please come to us first if you are not happy about something that has been done with your personal health information. If you wish to make a complaint, we want to resolve your concerns with you. To discuss your concern and see what can be done to fix the situation, please speak to our Contact Person.

THE INFORMATION
AND PRIVACY
COMMISSIONER
OF ONTARIO

Sometimes we may be unable to resolve all of your concerns about how your personal health information has been handled. In this case, you may wish to contact the Information and Privacy Commissioner

of Ontario. The Commissioner is the person who has general responsibility for ensuring that the Act is followed.

You can make a complaint to the Commissioner about any decision, action or inaction that you believe is not in compliance with the Act, including

- if you are unable to resolve with us a complaint or concern about how your personal health information has been handled,
- if you are unable to see all of your personal health information, or want to complain about a delay in responding to your request,
- if you feel your personal health information in your record is incorrect and you have been unable to persuade us to correct the information, or
- if you disagree with the fee that we charged for you to see or get a copy of your personal health information.

You must make your complaint within one year of the matter you are complaining about, and it should be in writing. The Commissioner will try to resolve the matter through mediation in her office. If your complaint cannot be resolved in this way, the Commissioner has the power to investigate and to make an order that sets out what must happen.



You can contact the
Commissioner in writing at:

**Information and Privacy
Commissioner/Ontario**

2 Bloor Street East, Suite 1400

Toronto, Ontario M4W 1A8

Telephone: 416 326 3333

or 1 800 387 0073

Facsimile: 416 325 9195

TTY: 416 325 7539

Website: www.ipc.on.ca

Email address: info@ipc.on.ca



Our Contact Person

Name:

Phone Number:

Disclaimer

This Brochure provides general information only and is not legal advice as to all rights and obligations under the Personal Health Information Protection Act.

Acknowledgment

This Notice and Brochure was developed as a joint project of the Information and Privacy Commissioner/Ontario and the Privacy and Health Law sections of the Ontario Bar Association (the "OBA"). We would like to thank the following people who participated in the Working Group:

Lonny J. Rosen, Tremayne-Lloyd Partners LLP; Chair, OBA Health Law Section

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Mary Jane Dykeman, Barrister and Solicitor, Executive Member, OBA Health Law Section

Mary O'Donoghue, Senior Counsel, Information and Privacy Commissioner /Ontario, Executive Member, OBA Privacy Law Section

We would also like to remember **Karen Spector**, Barrister and Solicitor, an enthusiastic and hardworking member of the Working Group and of the OBA Privacy Law Section, who, sadly passed away before our work was finished.

