



Information and Privacy  
Commissioner of Ontario  
Commissaire à l'information et à la  
protection de la vie privée de l'Ontario

**VIA ELECTRONIC MAIL & ONLINE SUBMISSION**

November 15, 2023

Brian Riddell  
Chair of the Standing Committee on Social Policy  
Legislative Assembly of Ontario  
99 Wellesley Street West  
Room 1405, Whitney Block  
Queen's Park  
Toronto, ON M7A 1A2

Dear Chair Riddell:

**RE: Written Submission of the Information and Privacy Commissioner of Ontario on Bill 135, *Convenient Care at Home Act, 2023***

I am writing with reference to Bill 135, *Convenient Care at Home Act, 2023*, which would amend the *Connecting Care Act, 2019* (CCA) by adding:

- A. Part III.1, about the amalgamation of existing local health integration networks (LHINs) into a new organization called "Ontario Health atHome" (to be referred to as "the Service Organization" in the legislation); and
- B. Section 45.1, about certain providers' authority to disclose records of personal health information to the Minister – and the Minister of Health's authority to collect personal information directly or indirectly – for the purposes of monitoring and evaluating home and community care services, and monitoring and assessing the health, safety and well-being of persons applying for or receiving those services.

**A. Amalgamation of LHINs into the Service Organization**

Bill 135 is currently unclear on whether the Service Organization, set to amalgamate and replace the LHINs, will provide health services as part of the "home and community care services" it is intended to provide to its patients, and if so, how it will be designated as a custodian under the *Personal Health Information Protection Act, 2004* (PHIPA) subject to all of the same privacy related obligations as its predecessor corporations.

In addition, the government needs to consider whether certain provisions under PHIPA that still refer to LHINs<sup>1</sup> should be amended to now refer to the Service Organization instead. For instance, s. 3(8) of Ontario Regulation 329/04 under PHIPA provides:

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<sup>1</sup> PHIPA refers to LHINs at ss. 2, 38(1)(b), 39(1)(a), and 46(1).



2 Bloor Street East  
Suite 1400  
Toronto, Ontario  
Canada M4W 1A8

2, rue Bloor Est  
Bureau 1400  
Toronto (Ontario)  
Canada M4W 1A8

Tel/Tél : (416) 326-3333  
1 (800) 387-0073  
TTY/ATS : (416) 325-7539  
Web : www.ipc.on.ca

Every local health integration network,

- (a) is prescribed as a health information custodian;
- (b) is prescribed as a single health information custodian with respect to all of its functions; and
- (c) shall be deemed to be included in the list of types of custodians referred to in subsections 20 (2) and (3), clause 38 (1) (a) and subclause 39 (1) (d) (i) of the Act.

This provision will need to be amended with reference to the Service Organization and clarify whether the Service Organization is intended to function as one single custodian or several custodians under PHIPA.

## **B. Disclosure and collection under s. 45.1**

If Bill 135 is passed, s. 45.1 of the CCA would give certain providers (namely a health service provider or an Ontario Health Team funded under section 21 to provide home and community care services and their provider of home and community care services) the authority to disclose records of personal health information, and the Minister of Health the authority to collect personal information, for the purposes of:

1. “Monitoring and evaluating home and community care services provided by a health service provider or an Ontario Health Team that is funded under section 21 [of the CCA] to provide those services and their provider of home and community care services” and
2. “Monitoring and assessing the health, safety and well-being of persons applying for or receiving home and community care services.”<sup>2</sup>

I recognize that the Ministry of Health may have a legitimate need to review records of personal health information or personal information for the purposes set out in s. 45.1(2). However, personal health information and personal information should be collected, used, and disclosed only where it is necessary, and no more should be collected, used, or disclosed than is necessary. I therefore recommend that s. 45.1 be amended to include the following data minimization provisions:

### **Other information**

(4) The Minister shall not collect, use or disclose personal health information or personal information if other information will serve the purpose of subsection (2).

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<sup>2</sup> See s. 14 of Bill 135, which creates what would be s. 45.1 of the CCA.

**Extent of information**

(5) The Minister shall not collect, use or disclose more personal health information or personal information than is reasonably necessary to serve the purpose of subsection (2).

While s. 30 of PHIPA has similar data minimization provisions with respect to personal *health* information, these suggested provisions would extend protection to other personal information as well, which is important given that the Minister's authority to collect under s. 45.1(2) is in respect of personal information more broadly.

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In the spirit of openness and transparency, I am providing a copy of this letter to the Ministry of Health. I will also be posting this letter on my office's website. My office would be pleased to answer any questions Committee members may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Kosseim", with a stylized flourish underneath.

Patricia Kosseim  
Commissioner

cc: Hon. Sylvia Jones, Minister of Health