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Use and Disclosure of Personal Health Information for Broader Public Health Purposes

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

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Introduction

The COVID-19 pandemic has highlighted the need for agility and flexibility, and the urgency to use personal health information for critical public health purposes. It has emphasized the critical importance of data sharing and has accelerated the development and adoption of new digital platforms to enable this important work. One of the IPC's **strategic priorities**, Trust in Digital Health, aims to support the pioneering use of personal health information for research and analytics to the extent it serves the public good.

Ontario's health privacy law, the ***Personal Health Information Protection Act, 2004*** (*PHIPA*), governs how health information custodians (custodians) collect, use, and disclose personal health information.

This document describes some of the ways in which *PHIPA* allows personal health information to be used or disclosed to improve the health care system and the health of the general public, outside the direct patient-provider relationship. Permitted purposes include:

- conducting research
- planning, evaluating, and managing the health system
- maintaining a registry of personal health information to improve the provision of health care
- protecting and promoting public health

This document summarizes the various ways in which personal health information can be used or disclosed for broader public health purposes, even without an individual's consent, provided certain requirements are satisfied.

Conducting research

PHIPA defines research as "a systematic investigation designed to develop or establish principles, facts or generalizable knowledge, or any combination of them, and includes the development, testing and evaluation of research" [s. 2].[1]

As long as certain conditions are met, *PHIPA* permits the collection, use, or disclosure of personal health information without consent for research. These conditions, which are primarily set out in section 44 of *PHIPA*, reflect a balance between the public benefit that can result from research and the need to protect individual privacy.

1) Researchers

The following people may conduct research using personal health information that is subject to *PHIPA*:

1 In this document, all section numbers are references to *PHIPA* unless noted otherwise.

- custodians — people or organizations that are identified in *PHIPA* and have custody or control of personal health information as a result of the work they do such as providing health care
- agents – people, like clinician researchers, acting on behalf of custodians and for whose actions custodians remain responsible [s. 17]
- outside researchers — people affiliated with universities or other sponsoring organizations who perform their own research, not on behalf of a custodian

2) Collection, use, and disclosure of personal health information for research

Collection

Custodians, or their agents, may collect personal health information for research purposes:

- if the custodian collects it from a person who is not a custodian and will use or disclose it for research purposes [s. 36(1)(d)]; or
- if the custodian collects it from a person who is legally permitted to disclose it to them [s. 36(1)(g)], such as another custodian

The personal health information that a custodian collects in the course of normal activities (for example, for the purpose of providing health care) may also be used and disclosed for research purposes.

Use

Custodians, or their agents, may use personal health information for their own research purposes if:

- the custodian prepares a research plan
- a research ethics board (REB) approves the research plan [s. 37(1)(j); s. 37(3)]

The requirements of a research plan and REB approval are further discussed below.

Disclosure

From custodians to other researchers

A custodian may, at their discretion, disclose personal health information to another researcher if the researcher:

- submits to the custodian an application in writing, along with their research plan and the written approval by the REB
- agrees, in writing, to abide by the custodian's conditions and restrictions related to the use, security, disclosure, return, or disposal of the personal health information they receive from the custodian [s. 44(1)]

From the Electronic Health Record (EHR) to researchers

The provincial EHR, which is maintained by Ontario Health, contains personal health information contributed by multiple custodians.[2] If a researcher requests personal health information from the EHR, the minister of health may direct Ontario Health to disclose the information to the researcher.

The minister of health may direct this disclosure if:

- the personal health information being requested for research purposes was contributed to the EHR by more than one custodian
- the disclosure would be in accordance with the rules that normally apply to individual custodians when disclosing personal health information to researchers
- the minister of health has consulted the EHR advisory committee about the request [55.10(1)][3]

The EHR advisory committee is a group established by the minister of health for the purpose of making recommendations to the minister concerning:

- Ontario Health's practices and procedures — including administrative, technical, and physical safeguards — to protect the privacy of the individuals whose personal health information it receives and to maintain the confidentiality of the information [s. 55.11(1)(a) and (c)]
- Ontario Health's practices and procedures to respond to access or correction requests [s. 55.11(1)(b)]
- privacy breach notice obligations and Ontario Health's role in assisting custodians in fulfilling their notice obligations to individuals [s. 55.11(1)(d) and (e)]
- anything that Part V.1 of *PHIPA* or its regulations refer to as capable of being the subject of a recommendation of the advisory committee [s. 55.11(1)(f)]
- any other matter the minister of health refers to the advisory committee [s. 55.11(1)(g)]

The minister of health is prohibited from directing Ontario Health to disclose personal health information for research if other information would serve the purpose [s. 55.10(5)], or if the disclosure would contain more personal health information than is reasonably necessary to meet the purpose of the research [s. 55.10(6)].

Ontario Health must comply with the minister of health's direction [s. 55.10(3)].

3) The research plan

The research plan being proposed must be in writing and must contain the following elements:

- the affiliation of each person involved in the research

2 For more information about the EHR, see ***Digital Health under PHIPA: Selected Overview***.

3 To consult with the advisory committee, the minister submits the request to the committee, which then has 30 days to review the request and make recommendations to the minister. The minister must consider the recommendations, if any, made by the advisory committee [55.10(1)(c)].

- the nature and objectives of the research and the public or scientific benefit of the research that the researcher anticipates
- a description of the research proposed to be conducted and the duration of the research
- a description of the personal health information required and the potential sources
- a description of how the personal health information will be used in the research, and if it will be linked to other information, a description of the other information as well as how the linkage will be done
- an explanation as to why the research cannot reasonably be accomplished without the personal health information and, if it is to be linked to other information, an explanation as to why this linkage is required
- an explanation as to why consent to the disclosure of the personal health information is not being sought from the individuals to whom the information relates
- a description of the reasonably foreseeable harms and benefits that may arise from the use of the personal health information and how the researchers intend to address those harms
- a description of all persons who will have access to the information, why their access is necessary, their roles in relation to the research, and their related qualifications
- the safeguards that the researcher will impose to protect the confidentiality and security of the personal health information, including an estimate of how long information will be retained in an identifiable form and why
- information as to how and when the personal health information will be disposed of or returned to the health information custodian
- the funding source of the research
- whether the researcher has applied for the approval of another research ethics board and, if so the response to or status of the application
- whether the researcher's interest in the disclosure of the personal health information or the performance of the research would likely result in an actual or perceived conflict of interest with other duties of the researcher [s. 44(2) and O. Reg. 329/04, s. 16]

4) Approval of research plans by REBs

Whether a custodian, an agent, or other researcher is conducting the research, an REB must approve the research plan.

When it comes to REB approval, *PHIPA* requires that the REB:

- be composed of at least five members
- contain at least one member with no affiliation with the person who established the REB
- include members with knowledge of:
    - privacy issues (at least one member)

  - research ethics (at least one member)
  - the methods or areas of research being considered (at least two members).

- be free from existing or perceived conflict of interest between any member's consideration of the research plan and their personal interests in the research or disclosure of the personal health information [O. Reg. 329/04, s. 15]

PHIPA does not require that the REB be that of the custodian that collected the personal health information or otherwise specify which REB must approve the researcher's plan, as long as it is duly constituted as per the above requirements.

PHIPA was amended in 2020 to further clarify that the decision of only one REB is sufficient even for multi-centered research [s. 44(1.1)].

5) Privacy considerations of the REB review

Although researchers may have various additional obligations imposed by their sponsoring organizations or funders (for example, **ICH Guidance E6(R2): Good Clinical Practice**[4] and the **Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans**[5]), *PHIPA* requires that, at a minimum, REBs must consider the following factors when reviewing a research plan and deciding whether to approve it:

- if the goals of the research could be accomplished without using personal health information
- if there are adequate safeguards to protect the privacy of individuals and confidentiality of their personal health information
- if it would be impractical to get consent
- the public interest in the research and the public interest in protecting privacy interests [s. 44(3)]

The REB must also consider any other factors it believes are relevant [s. 44(3)].

The REB must provide its decision about approval, with its reasons, in writing to the researcher [s. 44(4)]. The REB may approve the plan subject to conditions, which must also be provided in writing [s. 44(4)].

6) Researchers' ongoing obligations

Once they have permission to receive and/or use personal health information for the purposes of carrying out their research plan, researchers — whether they are custodians, agents, or other researchers — must follow certain additional rules *during* the research and *after* the research is completed.

4 In April 2019, Health Canada **announced** the implementation of the International Council for Harmonisation of Technical Requirements of Pharmaceuticals for Human Use (ICH) Guidance E6(R2): Good Clinical Practice.

5 Canadian Institutes of Health Research, Natural Sciences and Engineering Research Council of Canada, and Social Sciences and Humanities Research Council, *Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans*, December 2018, (TCPS 2).

Researchers must:

- abide by any conditions that the REB may have imposed as part of its approval
- use the personal health information only for the purposes described in the approved research plan
- not publish the personal health information in a form that could reasonably enable someone to identify an individual
- not disclose the personal health information, except as required by law and subject to prescribed exceptions and requirements[6]
- not contact the individuals whose personal health information was received, unless the custodian has obtained the individual's consent [s. 44(6)]

Researchers must comply with the terms of the agreement that they entered into with the custodian [s. 44(6)(g)]. The researcher must notify the custodian immediately, in writing, if the terms of the agreement — or the rules regarding the researcher's ongoing obligations — are breached [s. 44(6)(f)].

A general rule under *PHIPA* is that if personal health information about an individual that is in the custody or control of a custodian is stolen or lost or if it is used or disclosed without authority, the custodian must notify the individual [s. 12(2)]. However, if the custodian is a researcher who has received the personal health information from another custodian under subsection 44(1), the researcher must not notify the individual, unless the other custodian:

- first obtains the individual's consent to having the researcher contact the individual, and
- informs the researcher that the individual has given the consent [s. 12(4)]

Custodians should ensure that their agreements with researchers require the researcher to immediately report breaches to the custodian to ensure that appropriate notifications can take place.

7) Ontario Health Data Platform

The province has developed the Ontario Health Data Platform (OHDP), which supports research and analysis about COVID-19 and its effects. The information in the OHDP has been gathered from a variety of datasets. In order to use the OHDP, researchers must **apply for access**. For more information, visit the OHDP website at **www.ohdp.ca**.

The minister of health may request that the Institute for Clinical Evaluative Sciences (ICES) and Ontario Health[7] disclose personal health information to the minister via the OHDP if the disclosure is necessary for the purposes of:

- researching, analyzing, investigating, preventing, responding to, or alleviating COVID-19 or its effects; or

6 For example, certain disclosures are permitted under O. Reg. 329/04, s. 17.

7 ICES and Ontario Health are prescribed entities under s. 45. See this document's section on "Planning, evaluating, and managing the health system."

- evaluating or monitoring the impact of COVID-19 on the management of, the allocation of resources to, or planning for all or part of the health system [O. Reg. 329/04, s. 18(11)].

ICES and Ontario Health must comply with the minister of health's request, unless the disclosure is otherwise prohibited by law or by the terms of any agreements that may be in place [O. Reg. 329/04, s. 18(12)]. The authority to make these disclosures ends on July 30, 2022.

In July 2020, the Office of the Information and Privacy Commissioner of Ontario (IPC) made several **recommendations** regarding the OHDP including:

- place a time limit on the permitted disclosures in the proposed regulation
- uphold principles of necessity and proportionality for the benefit of the people of Ontario
- provide the people of Ontario with information regarding the OHDP
- ensure appropriate oversight and accountability to the people of Ontario
- take steps to ensure the privacy and security of the information on the OHDP

Planning, evaluating, and managing the health system

Under *PHIPA*, there are certain organizations designated as "prescribed entities". These prescribed entities are:

- Canadian Institute for Health Information
- ICES
- Pediatric Oncology Group of Ontario
- Ontario Health [O. Reg. 329/04, s. 18(1)]

Custodians may disclose personal health information to a prescribed entity for the purpose of analysis or compiling statistical information with respect to the management, evaluation, monitoring, resource allocation, or planning of all or part of the health system, including the delivery of services [s. 45(1)].

Also, the minister of health may direct Ontario Health to disclose personal health information in the EHR to prescribed entities for these same purposes, subject to the following conditions:

- the personal health information being requested for these purposes was contributed to the EHR by more than one custodian [55.10(1)(b)]
- the disclosure would be in accordance with the rules that normally apply to individual custodians when disclosing personal health information to prescribed entities [55.10(1)(d)]
- the minister of health has consulted the EHR advisory committee about the request [55.10(1)(c)]

- other information (i.e. information that is not personal health information) would not serve the purpose of the disclosure [s. 55.10(5)]
- the disclosure would not contain more personal health information than is reasonably necessary to meet the purpose [s. 55.10(6)]

Prescribed entities may use and disclose personal health information for research purposes as if they were custodians [O. Reg. 329/04, s. 18(3) and (4)].

Prescribed entities must have practices and procedures in place for protecting the privacy of the individuals whose personal health information they receive and for maintaining the confidentiality of the information [s. 45(3)(a)].

These practices and procedures must be approved by the IPC. The IPC is responsible for reviewing these practices and procedures every three years [s. 45(4)]. The IPC issues approval letters, which may contain recommendations to enhance the prescribed entity's practices and procedures.

Prescribed entities must provide a plain language description of their functions, including a summary of their practices and procedures, and must make these publicly available [O. Reg. 329/04, s. 18(2)].

For more information about prescribed entities, see the IPC's ***Frequently Asked Questions***, ***Review and Approval Process***, and ***Three-Year Reviews and Approvals: Documentation*** available at **www.ipc.on.ca**.

Maintaining a registry of personal health information to improve the provision of health care

PHIPA also designates certain other organizations as "prescribed persons". These are:

- CorHealth Ontario (formerly the Cardiac Care Network of Ontario) in respect of its registry of cardiac and vascular services
- INSCYTE (Information System for Cytology etc.) Corporation in respect of CytoBase
- Hamilton Health Sciences Corporation in respect of the Critical Care Information System
- Ontario Health in respect of the Ontario Cancer Screening Registry
- Children's Hospital of Eastern Ontario — Ottawa Children's Treatment Centre in respect of the Better Outcomes Registry and Network
- Ontario Institute for Cancer Research in respect of the Ontario Tumour Bank [O. Reg. 329/04, s. 13(1)]

Custodians may disclose personal health information to a prescribed person who compiles or maintains a registry of personal health information for purposes of facilitating or improving the provision of health care or that relates to the storage or donation of body parts or bodily substances [s. 39(1)(c)].

Also, the minister of health may direct Ontario Health to disclose personal health information in the EHR to a prescribed person for these same purposes, subject to these conditions:

- the personal health information being requested for these purposes was contributed to the EHR by more than one custodian [55.10(1)(b)]
- the disclosure would be in accordance with the rules that normally apply to individual custodians when disclosing personal health information to prescribed persons [55.10(1)(d)]
- the minister of health has consulted the EHR advisory committee about the request [55.10(1)(c)]
- other information (i.e. information that is not personal health information) would not serve the purpose of the disclosure [s. 55.10(5)]
- the disclosure would not contain more personal health information than is reasonably necessary to meet the purpose [s. 55.10(6)]

Prescribed persons are subject to similar, but separate, rules than prescribed entities. Prescribed persons may use and disclose personal health information for research purposes as if they were custodians [O. Reg. 329/04, s. 13(4) and (5)].

Prescribed persons must have practices and procedures in place for protecting the privacy of the individuals whose personal health information they receive and for maintaining the confidentiality of the information [O. Reg. 329/04, s. 13(2)(a)].

These practices and procedures must be approved by the IPC. The IPC is responsible for reviewing these practices and procedures every three years [O. Reg. 329/04, s. 13(2)(b)]. The IPC issues approval letters, which may contain recommendations to enhance the prescribed person's practices and procedures.

Prescribed persons must provide a plain language description of their functions, including a summary of their practices and procedures, and must make these publicly available [O. Reg. 329/04, s. 13(3)].

For more information about prescribed persons, see the IPC's ***Frequently Asked Questions***, ***Review and Approval Process***, and ***Three-Year Reviews and Approvals: Documentation*** available at **www.ipc.on.ca**.

Protecting and promoting public health

1) Disclosure to the chief medical officer of health or a medical officer of health[8]

Ontario has 34 public health units, each governed by a board of health and administered by a medical officer of health who reports to the board.[9] There is also a chief medical officer of health for the province of Ontario.

Custodians may disclose personal health information to the chief medical officer of health or a medical officer of health for a purpose set out in the ***Health Protection and Promotion Act*** (*HPPA*) or the ***Immunization of School Pupils Act*** (*ISPA*) [s. 39(2)(a)].

The purpose of the *HPPA* is to deliver public health services, prevent the spread of disease, and promote the health of Ontarians.[10] The purpose of the *ISPA* is to protect children against certain diseases, such as measles and tetanus.[11]

Custodians may also disclose personal health information to similar public health authorities whether federally, in other provinces or territories, or internationally, for a purpose that is substantially similar to a purpose of one of the *HPPA* or the *ISPA* [s. 39(2)(b)].

The minister of health may direct Ontario Health to disclose personal health information from the EHR to the chief medical officer of health, a medical officer of health, or similar public health authorities [s. 55.10] subject to these conditions:

- the personal health information being requested was contributed to the EHR by more than one custodian [55.10(1)(b)]
- the disclosure would be in accordance with the rules that normally apply to individual custodians when disclosing personal health information to these public health authorities [55.10(1)(d)]
- the minister of health has consulted the EHR advisory committee about the request [55.10(1)(c)][12]
- other information (i.e. information that is not personal health information) would not serve the purpose of the disclosure [s. 55.10(5)]
- the disclosure would not contain more personal health information than is reasonably necessary to meet the purpose [s. 55.10(6)]

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8 The chief medical officer of health is part of a custodian [O. Reg. 329/04, s. 3(10)], and a medical officer of health is a custodian [s. 3(1)(6)].

9 See the Ministry of Health and Ministry of Long-Term Care's ***Public Health Units***.

10 See s. 2 of the *HPPA*, which states: "The purpose of this Act is to provide for the organization and delivery of public health programs and services, the prevention of the spread of disease and the promotion and protection of the health of the people of Ontario."

11 See s. 2 of the *ISPA*, which states: "The purpose of this Act is to increase the protection of the health of children against the diseases that are designated diseases under this Act."

12 The minister may shorten the 30-day consultation time period usually provided to the advisory committee if, in the minister's opinion, the urgency of the situation requires it [s. 55.10(2)].

In addition, the chief medical officer of health and medical officers of health may directly collect personal health information by means of the EHR for purposes related to their duties under the *HPPA* or the *ISPA* [s. 55.9.1(2)].

2) Disclosure to Public Health Ontario[13]

Custodians may also disclose personal health information to the Ontario Agency for Health Protection and Promotion (known as Public Health Ontario) for a purpose of the ***Ontario Agency for Health Protection and Promotion Act, 2007*** (*OAHPPA*) [s. 39(2)(a.1)]. The purpose of that act is to protect and promote the health of Ontarians, which includes reducing health inequities, by performing activities such as assessment, research, surveillance, epidemiology, planning, and evaluation.[14]

The minister of health may direct Ontario Health to disclose personal health information from the EHR to Public Health Ontario [s. 55.10]. The minister of health's ability to direct such a disclosure to Public Health Ontario is subject to the same conditions above that apply to disclosures to the chief medical officer of health, a medical officer of health, or similar public health authorities under section 55.10.

3) When significant risk of serious bodily harm

Custodians may disclose personal health information to others if they believe, on reasonable grounds, that the disclosure is necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm to a person or group of persons [s. 40(1)].[15]

In the context of the provincial EHR, a custodian may collect an individual's personal health information from the EHR if the custodian reasonably believes collection is necessary to eliminate or reduce a significant risk of serious bodily harm to a person or group of persons [s. 55.5(1)(b)].

If a custodian has collected personal health information from the EHR for the purpose of eliminating or reducing a significant risk of serious bodily harm, the custodian may then only use or disclose the information for that purpose [s. 55.5(5)].

This permission to collect personal health information from the EHR for the purpose of eliminating or reducing significant risk of bodily harm exists despite a consent directive that would otherwise prohibit this. This is known as a consent override [s. 55.7]. Consent overrides are permitted in these types of situations:

13 Public Health Ontario is a custodian [O. Reg. 329/04, s. 3(3)].

14 See s. 1 of the *OAHPPA*, which states: "The purpose of this Act is to enhance the protection and promotion of the health of Ontarians and to contribute to efforts to reduce health inequities through the establishment of an agency to provide scientific and technical advice and support to those working across sectors to protect and improve the health of Ontarians and to carry out and support activities such as population health assessment, public health research, surveillance, epidemiology, planning and evaluation."

15 See ***PHIPA* Decision 20**, in which the complainant, concerned for his own health, sought the disclosure of his deceased brother's personal health information. In this case, the adjudicator found that the complainant had not met the conditions necessary to permit disclosure of the personal health information based on risk of serious bodily harm.

- the custodian reasonably believes that it is necessary for eliminating or reducing a significant risk of serious bodily harm to the individual and it is not reasonably possible to get the individual's timely consent [s. 55.7(2)]; or
- the custodian reasonably believes that it is necessary for eliminating or reducing a significant risk of serious bodily harm to another person or group of persons [s. 55.7(3)].

In these circumstances, the custodian collecting the personal health information from the EHR may only use or disclose it for the purpose for which it was collected and for no other purpose [s. 55.7(4)].

When a consent override occurs, certain notifications are required. Depending on the circumstances, notification must be provided to the custodian[16], the affected individual, and/or the IPC. These requirements are set out in ss. 55.7(6), (7), and (8) and O. Reg. 329/04 ss. 18.6, 18.7, and 18.8 and are summarized in ***Digital Health under PHIPA: Selected Overview.***

A note about de-identified information

Ontario's privacy laws do not prevent de-identified information from being shared for broader public health purposes such as helping to control disease outbreaks, keeping the public safe, and allowing the public to assess the public health response.

Custodians may use personal health information about an individual in order to de-identify it, and *PHIPA* clarifies that such use does not require consent [s. 37(1)(f)].

To "de-identify" an individual's personal health information means to remove any information that identifies the individual or for which it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other information, to identify the individual [s. 2].

PHIPA generally prohibits persons from using or attempting to use information that has been de-identified to identify an individual, unless permitted by law to do so [s. 11.2(1)].[17] Wilfully violating this prohibition is an offence under *PHIPA* [s. 72(1)(b.1)] and can lead to a fine of up to $1,000,0000 for corporations and a fine of up to $200,000 – and/or up to a year in prison – for individuals [s. 72(2)].

General Obligations under *PHIPA*

While custodians using or disclosing personal health information for broader public health purposes must follow the rules specific to the particular purpose, they must also ensure that they are complying with all applicable general obligations found in *PHIPA*.

16 While it may appear redundant to notify the custodian who performed the override in the first place, the override in most cases will have been performed by an agent of which the custodian may not be aware.

17 Certain persons are permitted to use information that *they* de-identified to identify an individual [s. 11.2(2)].

The following requirements are examples of *PHIPA* obligations that apply to all custodians, regardless of the purposes for which they collect, use, and disclose personal health information.

1) Authority for collection, use, or disclosure

A custodian may collect, use or disclose personal health information about an individual, including for any of the broader public health purposes described in this document, if:

- the custodian has the individual's consent under *PHIPA* and the collection, use, or disclosure, as the case may be, to the best of the custodian's knowledge, is necessary for a lawful purpose; or
- the collection, use, or disclosure, as the case may be, is permitted or required by *PHIPA* [s. 29].

In the specific EHR context, a custodian may collect an individual's personal health information from the EHR only for the purpose of providing or assisting in the delivery of health care to the individual, or if the custodian reasonably believes collection is necessary to eliminate or reduce a significant risk of serious bodily harm to a person or group of persons [s. 55.5(1)].

2) Transparency to the public

If a custodian routinely uses or discloses personal health information for any of the broader public health purposes described in this document, the custodian must include that fact in its written public statement.

Every custodian must have a written public statement describing its information practices [s. 16(1)]. Information practices include when, how and the purposes for which the custodian routinely collects, uses, modifies, discloses, retains, or disposes of personal health information, as well as the custodian's safeguards with respect to the information [s. 2]. The written public statement must also describe how to reach the contact person, how to obtain access to or request a correction of a record of personal health information and how to make a complaint to the custodian and to the IPC [s. 16(1)].

In general, if a custodian uses or discloses personal health information without an individual's consent in a manner that is outside the scope of the description of information practices, the custodian must notify the individual at the first reasonable opportunity [s. 16(2)].

3) Data minimization

While custodians may use and disclose personal health information for broader public health purposes, they are still required to minimize the amount of personal health information involved.

Custodians must not collect, use, or disclose personal health information if other information will serve the purpose of the collection, use, or disclosure [s. 30(1)]. Custodians

must not collect, use, or disclose more personal health information than is reasonably necessary to meet the purpose of the collection, use, or disclosure [s. 30(2)].

These limitations do not apply to personal health information the custodian is required by law to collect, use, or disclose [s. 30(3)].

4) Recipients of personal health information

Some of the disclosures described in this document involve a custodian disclosing personal health information to a non-custodian. In general, a non-custodian who receives personal health information from a custodian:

- must not use or disclose the information for any purpose other than the purpose for which the custodian was authorized to disclose the information under *PHIPA*, or the purpose of carrying out a statutory or legal duty [s. 49(1)]
- must not use or disclose more of the information than is reasonably necessary to meet the purpose of the use or disclosure, as the case may be, unless the use or disclosure is required by law [s. 49(2)]

This is generally referred to as the “recipient rule.”

These limitations do not apply to recipients that are institutions within the meaning of the ***Freedom of Information and Protection of Privacy Act*** or the ***Municipal Freedom of Information and Protection of Privacy Act*** [s. 49(5)].

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Information and Privacy Commissioner of Ontario

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