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Personal Health Information Regulations
made under Section 110 of the
Personal Health Information Act
S.N.S. 2010, c. 41
O.I.C. 2012-371 (effective June 1, 2013), N.S. Reg. 217/2012
amended to O.I.C. 2019-304 (effective October 29, 2019), N.S. Reg. 175/2019

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Citation

1 These regulations may be cited as the *Personal Health Information Regulations*.

Interpretation**Definitions for Act and regulations**

2 (1) In the Act,

“applicant”, in subsection 102(1) and clauses 103(5)(b) and (c) of the Act, means an individual whose personal health information was the subject of a review under clause 92(2)(a), (2)(b) or (3)(a) of the Act;

“data linkage” means the bringing together of 2 or more records of personal health information to form a composite record;

“electronic health record” means an electronic information system that is approved by the Minister and integrates data from multiple electronic information systems for the purpose of providing a comprehensive record of an individual’s personal health information;

“health information” has the same meaning as “personal health information”.

(2) In the Act and these regulations, “electronic information system” means a computer system that generates, sends, receives, stores or otherwise processes personal health information.

(3) In these regulations, “Act” means the *Personal Health Information Act*.

Additional custodians prescribed

3 The following organizations or classes of organizations are prescribed as custodians for the purposes of subclause 3(f)(x) of the Act:

- (a) a Nova Scotia Hearing and Speech Centre;
- (b) a home care agency that is approved by the Department of Health and Wellness and has a service agreement with a district health authority under the *Health Authorities Act* or with the Izaak Walton Killam Health Centre;
- (c) a home oxygen agency that is approved by and has a service agreement with the Department of Health and Wellness;
- (d) each of the following Mi’kmaw First Nation bands in the Province:
 - (i) Annapolis Valley First Nation,
 - (ii) Eskasoni First Nation,
 - (iii) Glooscap First Nation,
 - (iv) Membertou First Nation,
 - (v) Pictou Landing First Nation,
 - (vi) Potlotek First Nation,
 - (vii) Sipekne’katik First Nation,
 - (viii) Wagmatcook First Nation,
 - (ix) We’koqma’q First Nation,
 - (x) Millbrook First Nation;
- (e) a community hospice operator as defined in the *Community Hospices Regulations* made under the *Health Authorities Act*.

Designation of health-care service

4 The following services are designated as health-care services for the purposes of subclause 3(k)(vi) of the Act:

- (a) an assessment under the *Adult Protection Act*;
- (b) the taking of a donation of blood or blood products, bodily parts or other bodily substances from an individual.

Designation of prevailing provisions

5 The provisions set out in the following table are designated for the purposes of subsection 7(3) of the Act:

Act or Regulations	Designated Provision
Any enactment governing a regulated health-profession body	any provision that grants a person the powers, privileges and immunities of a commissioner under the <i>Public Inquiries Act</i>
<i>Adoption Information Act</i>	Section 5
<i>Adult Protection Act</i>	Section 5
<i>Auditor General Act</i>	Section 14
<i>Child Pornography Reporting Act</i>	Section 3
<i>Children and Family Services Act</i>	Sections 23, 24, 25, 26, and 61
<i>Day Care Regulations</i> under the <i>Day Care Act</i>	Subsections 30(1), (2), (3) and (4)
<i>Fatality Investigations Act</i>	Sections 7, 9, 10, 11, 12, subsection 13(3), subsection 14(2), and Section 23
<i>Gunshot Wounds Mandatory Reporting Act</i>	Section 3
<i>Health Act</i>	Section 101
<i>Health Protection Act</i>	Section 15, subsection 16(2), Section 31, subsections 32(1) and (2), clause 32(3)(g), Sections 40, 42 and 50, clause 58(1)(e) and Sections 62 and 65
<i>Homes for Special Care Act</i> <i>Homes for Special Care Regulations</i> under the <i>Homes for Special Care Act</i>	Sections 10 and 11 Subsections 25(1), (2), and (3)
<i>Juries Act</i> <i>Juries Regulations</i> under the <i>Juries Act</i>	Section 8 Section 4
<i>Mandatory Testing and Disclosure Act</i>	clause 9(1)(b) and Section 10
<i>Missing Persons Act</i>	clause 6(2)(f)
<i>Prescription Monitoring Act</i>	Sections 18, 20 and 23
<i>Protection for Persons in Care Act</i>	Sections 4, 5, and 6
<i>Sharing of Health Information Regulations</i> under the <i>Correctional Services Act</i> and the <i>Court Houses and Lockup Houses Act</i>	Sections 1, 2, 3 and 4
<i>Victims' Rights and Services Act</i> <i>Criminal Injuries Compensation Regulations</i> under the <i>Victims' Rights and Services Act</i>	Section 11A Section 3

Designation of health authority

5A A health authority as defined in the *Health Authorities Act* is prescribed as being authorized to collect, use and disclose personal health information for the purpose of planning and management of health services as defined in the *Health Authorities Act*.

Collecting and Using Health-card Numbers**Authorization for specified non-custodians and purposes**

6 (1) For the purposes of clause 27(b) of the Act, each of the following non-custodian individuals and organizations is authorized to collect and use an individual's health-card number for the purpose or purposes specified:

- (a) the Workers' Compensation Board of Nova Scotia, to assess an injured worker's entitlement to benefits;

- (b) the Minister of Community Services, for any of the following purposes:
 - (i) to facilitate health care for children in the Child Welfare or Children in Care program,
 - (ii) to indicate eligibility for a pharmacare program established under the *Fair Drug Pricing Act*,
 - (iii) to facilitate health care for clients of the Services for Persons with Disabilities program,
 - (iv) to determine benefits under the *Employment Support and Income Assistance Act*,
 - (v) to facilitate the operation of the Child Abuse Register established under the *Children and Family Services Act*;
- (c) the Minister of Service Nova Scotia and Municipal Relations, Vital Statistics Division, for identification purposes in registering births and deaths;
- (d) the Office of the Public Trustee, to facilitate health care decisions for its clients and for the financial management of its clients' estates;
- (e) each of the following Mi'kmaw First Nation bands in the Province, to contribute to and maintain the Nova Scotia First Nations Client Linkage Registry:
 - (i) Acadia First Nation,
 - (ii) Bear River First Nation,
 - (iii) Paq'tnekek First Nation.

- (2) In clause (1)(e), "Nova Scotia First Nations Client Linkage Registry" means a registry of First Nations health care clients that is used as a tool to access, manage and use health information for use in the First Nations' health planning and evaluation.

Authorization for non-custodian facilitating provision of Provincially funded insured health services

- 7 For the purposes of clause 27(b) of the Act, a non-custodian is authorized to collect and use an individual's health-card number for the purposes of facilitating the provision of insured services.

Complaints

Complaints policy

- 8 (1) A complaints policy implemented by a custodian under subsection 62(2) of the Act must include the following:
- (a) a requirement that an individual submit a complaint to the custodian in writing; and
 - (b) a statement of the time period following receipt of a written complaint during which the custodian must process, investigate and make a decision on the complaint and reply to the complainant.
- (2) Subject to subsection (3), the time period referred to in clause (1)(b) must be no longer than 60 days.
- (3) A custodian who receives a complaint may, by written notice to the complainant before the end of the time period specified in the custodian's complaints policy, extend the time period
- (a) by no more than 30 days; or
 - (b) with the Review Officer's permission, by a period longer than 30 days, if either of the following ~~apply~~ [applies]:
 - (i) replying to the complaint within the 30-day extension period would unreasonably interfere with the activities of the custodian,
 - (ii) the time required to undertake the consultations necessary to reply to the request within the 30-day extension period would make it not reasonably practical to reply within that time.

Mediation

- 9 (1) Mediation under subsection 96(1) of the Act must be agreed to by both the individual whose personal health information is the subject of the review and the custodian.
- (2) The 30-day period referred to in subsection 96(2) of the Act begins on the date on which the Review Officer contacts the applicant and the custodian to initiate mediation.
- (3) The Review Officer must remain neutral and impartial during the mediation process.

- (4) If mediation is not successful, the documents that were produced and discussions that took place during the mediation process must not form part of the records of any ongoing review.

Electronic Information Systems

Additional safeguards

- 10** (1) The following are prescribed as additional safeguards that a custodian must implement under Section 65 of the Act for personal health information held in an electronic information system maintained by the custodian:
- (a) protection of network infrastructure, including physical and wireless networks, to ensure secure access;
 - (b) protection of hardware and its supporting operating systems to ensure that the system functions consistently and only those authorized to access the system have access; and
 - (c) protection of the system's software, including the way it authenticates a user's identity before allowing access.
- (2) A custodian must create and maintain written policies to support and enforce the implementation of the safeguards required by subsection (1).
- (3) A custodian must create and maintain a record of every security breach of the custodian's electronic information system that the custodian determines on a reasonable basis is likely to pose a risk to an individual's personal health information.
- (4) A record of security breaches must include details of all corrective procedures taken by the custodian to diminish the likelihood of future security breaches.

Record of user activity

- 11** (1) In subsection 63(3) of the Act and in this Section, "record of user activity related to an individual's personal health information" means a report produced at the request of an individual for a list of users who accessed the individual's personal health information on an electronic information system for a time period specified by the individual.
- (2) A record of user activity related to an individual's personal health information must include at least all of the following information:
- (a) the name of the individual whose personal health information was accessed;
 - (b) a unique identification number for the individual whose personal health information was accessed, including their health-card number or a number assigned by the custodian to uniquely identify the individual;
 - (c) the name of the person who accessed the personal health information;
 - (d) any additional identification of the person who accessed the personal health information, including an electronic information system user identification name or number;
 - (e) a description of the personal health information accessed or, if the specific personal health information accessed cannot be determined, all possible personal health information that could have been accessed;
 - (f) the date and time the personal health information was accessed or, if specific dates and times cannot be determined, a range of dates when the information could have been accessed by the person.
- (3) A custodian must retain the information that was used to update a record of user activity related to an individual's personal health information for at least 1 year after each date of access.

Fees for Accessing Personal Health Information Records

Fee exceptions

- 12** The fees prescribed in these regulations do not apply to any of the following:
- (a) a request made by a solicitor representing a legal aid client;
 - (b) a request from an individual for the purposes of appearing before the Review Board under Section 68 of the *Involuntary Psychiatric Treatment Act*;
 - (c) a search warrant presented by a police officer under section 487 of the *Criminal Code* (Canada) or a production order presented by a police officer under section 278.7 of the *Criminal Code* (Canada);
 - (d) a request by a police officer or probation officer who is entitled to personal health information in accordance with clause 11(a) of the Act under a consent given by the individual whose personal health information is the subject of the request;

- (e) a request from a regulated health-profession body that is permitted to access personal health information under clause 38(1)(c) of the Act and that is using the information for the purposes of regulating the health profession;
- (f) a request from a regulated health professional who is entitled to personal health information in accordance with clause 11(a) of the Act under a consent given by the individual whose personal health information is the subject of the request;
- (g) a request from the Workers' Compensation Board of Nova Scotia.

Fees prescribed do not include applicable tax

13 The fees prescribed in these regulations do not include any applicable tax.

General fee for access to record

14 A custodian who makes a record, or part of a record, of personal health information available to an individual or provides a copy of it to an individual may charge a general fee, not to exceed \$30.00 per request, as compensation for all of the following:

- (a) receiving and clarifying the request;
- (b) locating and retrieving the record, including any record held electronically;
- (c) providing an estimate of the access fee to the requester as required by subsection 82(1) of the Act;
- (d) review of the record for no longer than 15 minutes by the custodian or an agent of the custodian to determine whether the record contains personal health information to which access may be refused under subsection 72(1) of the Act;
- (e) severing of the record if access to part of the record is refused under subsection 72(1) of the Act;
- (f) preparing the record for photocopying, printing or electronic transmission for no longer than 30 minutes;
- (g) preparing a response letter to the requester;
- (h) supervising an individual's examination of original records for no longer than 30 minutes;
- (i) the cost of mailing a record by regular mail to an address in Canada.

Specific fees

15 In addition to the general fee provided for in Section 14 and any direct costs provided for in Section 16, a custodian may charge up to the maximum fee set out in the following table for the activity specified:

Activity	Maximum Fee
Making photocopies of a record	\$.20 per page
Preparing a record for photocopying, printing or electronic transmission	\$12.00 for every 30 minutes after the initial 30 minutes covered by the general fee under clause 14(f)
Faxing a record	\$.20 per page
Making a compact disk containing a copy of a record stored in electronic form	\$10.00 per request
Making a microfiche copy of a record stored on microfiche	\$.50 per sheet
Making a paper copy of a record from microfilm or microfiche	\$.50 per page
Making a copy of an audio cassette recording	\$5.00 per cassette
Making and providing a copy of a 1/4", 1/2" or 8 mm video cassette recording that is	
- 1 hour long or less	\$20.00
- more than 1 hour long	\$25.00
Making and providing a copy of a 3/4" video cassette recording that is	
- 1 hour long or less	\$18.00
- more than 1 hour long	\$23.00
Producing a record stored on medical film, including x-ray, CT and MRI films	\$5.00 per film
Printing a photograph from a negative or from a photograph stored in electronic form,	

- per 4" × 6" print	\$10.00
- per 5" × 7" print	\$13.00
- per 8" × 10" print	\$19.00
- per 11" × 14" print	\$26.00
- per 18" × 20" print	\$32.00
Review of the record by a custodian or an agent of the custodian to determine whether the record contains personal health information to which access may be refused under subsection 72(1) of the Act	\$25.00 for every 15 minutes after the first 15 minutes covered by the general fee under clause 14(d)
Supervising an individual's examination of original records	\$6.00 for every 30 minutes after the first 30 minutes covered by the general fee under clause 14(h)

Direct costs

16 In addition to the general fee provided for in Section 14 and the specific fees provided for in Section 15, a custodian may charge for the following direct costs incurred by the custodian, including any applicable tax:

- (a) charges to retrieve a record from and return the record to off-site storage, if an individual requests expedited access to a record for which additional retrieval costs are charged to the custodian;
- (b) courier costs, if courier delivery is requested by the individual;
- (c) the cost of mailing a record to an address outside Canada;
- (d) taxes payable on the services provided.

Visit history

17 (1) In this Section, "visit history" means a record that

- (a) can be produced by a custodian's administrative staff from the custodian's health records; and
 - (b) consists of a computerized printout of an individual's visits.
- (2)** If a custodian has the ability to produce a visit history for an individual, the custodian may provide a copy of the visit history to the individual at the individual's request.
- (3)** A custodian may charge a fee of no more than \$10.00 to produce a visit history and may not charge the general fee provided for in Section 14 or a specific fee provided for in Section 15 to an individual who requests only a visit history.

Legislative History Reference Tables

Personal Health Information Regulations
Personal Health Information Act

N.S. Reg. 217/2012

Note: The information in these tables does not form part of the regulations and is compiled by the Office of the Registrar of Regulations for reference only.

Source Law

The current consolidation of the *Personal Health Information Regulations* made under the *Personal Health Information Act* includes all of the following regulations:

N.S. Regulation	In force date*	How in force	Royal Gazette Part II Issue
217/2012	Jun 1, 2013	date specified	Dec 14, 2012
249/2013	Jul 9, 2013	date specified	Jul 26, 2013
81/2014	Jun 3, 2014	date specified	Jun 13, 2014
203/2015	Apr 21, 2015	date specified	May 15, 2015
159/2017	Oct 31, 2017	date specified	Nov 10, 2017
132/2018	Nov 1, 2018	date specified	Aug 3, 2018
133/2018	Feb 1, 2019	date specified	Aug 3, 2018
175/2019	Oct 29, 2019	date specified	Nov 22, 2019

The following regulations are not yet in force and are not included in the current consolidation:

N.S. Regulation	In force date*	How in force	Royal Gazette Part II Issue
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*See subsection 3(6) of the *Regulations Act* for rules about in force dates of regulations.

Amendments by Provision

ad. = added
am. = amended

fc. = fee change
ra. = reassigned

rep. = repealed
rs. = repealed and substituted

Provision affected	How affected
3(d).....	ad. 132/2018
3(d)(x).....	ad. 133/2018
3(e).....	ad. 175/2019
5	am. 249/2013, 203/2015
5A.....	ad. 159/2017
6.....	ra. as 6(1) 249/2013
6(1).....	ra. from 6 249/2013
6(1)(d).....	am. 249/2013
6(1)(e).....	ad. 249/2013; rs. 81/2014, 132/2018
6(1)(e)(iv).....	rep. 133/2018
6(2).....	ad. 249/2013; am. 81/2014
12(f)-(g).....	am. 249/2013

Note that changes to headings are not included in the above table.

Editorial Notes and Corrections:

	Note	Effective date
1	The reference to the Minister of Service Nova Scotia and Municipal Relations in s. 6(1)(c) should be read as a reference to the Minister of Service Nova Scotia in accordance with Order in Council 2014-71 under the <i>Public Service Act</i> , R.S.N.S. 1989, c. 376.	Apr 1, 2014
2	The reference to the <i>Day Care Regulations</i> made under the <i>Day Care Act</i> in s. 5 should be read as a reference to the <i>Early Learning and Child Care Regulations</i> made under the <i>Early Learning and Child Care Act</i> in accordance with an amendment to the title of the Act made by S.N.S. 2018, c. 33, s. 2, as proclaimed in force by N.S. Reg. 163/2020, and a corresponding amendment made to the regulations by N.S. Reg. 164/2020.	Oct 27, 2020

Repealed and Superseded:

N.S. Regulation	Title	In force date	Repealed date
28/2004	Release of Patient Information Fees Regulations	Mar 12, 2004	Jun 1, 2013

Note: Only regulations that are specifically repealed and replaced appear in this table. It may not reflect the entire history of regulations on this subject matter.

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