

MicroSCOPE

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In Focus:

HIPA and New Health Information Protection Regulations

PRIVACY

DATA
PROTECTION



SASKATCHEWAN
COLLEGE OF PHARMACY
PROFESSIONALS

Introduction

All regulated health professionals are legally and ethically obligated to protect the confidentiality of a patient's personal health information (PHI). Pharmacists, pharmacy technicians, and pharmacy owners all have obligations under the [Health Information Protection Act](#) (HIPA), which governs how PHI is collected, used, and disclosed.

Amendments were recently made to HIPA and its regulations (which are now [The Health Information Protection Regulations, 2023](#)). The

updated HIPA and new Regulations will come into force on **August 1, 2023**. Members, privacy officers, and proprietors should review their documents, processes, and procedures to ensure that they are in compliance with the changes.

The purpose of this newsletter is to alert you to this new legislation and to provide an overview of some of the changes.

! New Duties of Trustees:

As of August 1, 2023, a Trustee's responsibilities will include:

1. A requirement to provide orientation and ongoing training to employees about the trustee's policies and procedures regarding the protection of PHI and to ensure that each employee signs a pledge of confidentiality (which must include an acknowledgment that they are bound by the policies and procedures and are aware of the consequences of breaching them). Note that "employee" is defined as anyone who is employed by the trustee (including anyone retained under a contract to perform services for the trustee) who also has access to PHI; and individuals who are authorized by the trustee to act on their behalf with respect to PHI. See section 5 of the new Regulations.
2. A requirement to have a written retention and destruction policy and to comply with the policy and any prescribed standards (subsection 17(1) of HIPA). The policy must include:

- a. a detailed retention/destruction schedule (that sets out all legitimate purposes for retaining the PHI and the retention period and destruction schedule associated with each purpose); or a requirement that PHI be retained for at least 10 years after the date of the last episode of care (or until age 20 if the subject individual is a minor, whichever period is longer); and
- b. measures for securing the retention and destruction of records to minimize the risk of unauthorized access, use and disclosure; and
- c. a process for keeping a record of the name of each individual whose PHI is destroyed; a summary of what PHI was destroyed; the time period of the PHI; the method of destruction of the PHI; and the name and job title of the individual responsible for supervising the destruction of the PHI. See section 6 of the new Regulations.

What is PHI?

Personal health information (PHI) means, with respect to an individual, whether living or deceased:

- information with respect to the physical or mental health of the individual (now includes genetic information like test results and family medical history);
- information with respect to any health service provided to the individual;
- information with respect to the donation by the individual of any body part or any bodily substance of the individual or information derived from the testing or examination of a body part or bodily substance of the individual;
- information that is collected:
 - ▶ in the course of providing health services to the individual; or
 - ▶ incidentally to the provision of health services to the individual; or
 - ▶ registration information.



3. If using an information management service provider, the trustee must have a written agreement (see subsection 18(2) of HIPA) that provides for protection and governs the access to, use, disclosure, storage, archiving, modification, and destruction of PHI. An information management service provider must comply with the terms of the agreement (subsection 18(4) of HIPA). This written agreement must include:
 - a. a description of the service the information management service provider will deliver;
 - b. provisions setting out the obligations of the information management service provider respecting the security and safeguarding of the PHI;
 - c. provisions for the destruction of the PHI, if applicable;
 - d. a requirement that the information management service provider not use, disclose, obtain access to, process, store, archive, modify or destroy PHI received from a trustee except for the purposes set out in subsection 18(1) of the Act;
 - e. a requirement that the information management service provider comply with the terms of the agreement entered into with the trustee; and
 - f. a requirement that the information management service provider notify the trustee at the first reasonable opportunity of any breach of the agreement. See section 7 of the new Regulations.

! New Authority to Disclose and Use PHI:

The new [Regulations](#) include additional authority for use and disclosure of PHI in certain circumstances. Examples include: the ability to use PHI for risk management, error management and quality improvement purposes, additional authority for disclosure to RCMP and police and added circumstances under which the PHI of deceased individuals can be disclosed.

Who are Trustees?

Among others, the Act defines "Trustees" as any of the following that have custody or control of PHI:

- A proprietor as defined in *The Pharmacy and Pharmacy Disciplines Act*.
- A health professional licensed or registered pursuant to an Act for which the Minister of Health is responsible (who is not an employee of a trustee); or a member of a class of persons designated as health professionals.
- A health professional body (e.g., SCPP) that regulates members of a health profession pursuant to an Act.
- ! **NEW:** Every person who owns or operates a privately-owned facility in or from which health services are provided by a health professional. Note that "health services" for the purpose of the new Regulations means health services as defined in *The Provincial Health Authority Act*, which may limit the application of this, and other sections.

PRIVATE

Updated Reference Manual Documents and Privacy Officer Training

- SCPP will be reviewing and updating the Reference Manual documents where necessary to reflect the updated Act and new Regulations. In the meantime, please refer to the updated Act and new Regulations to ensure compliance.
- The CPDPP (Continuing Professional Development for Pharmacy Professionals) Privacy Officer Training will also be reviewed to ensure it complies with the new legislation.



July 27, 2023, Update: The Ministry of Health provided a question-and-answer document for stakeholders to help navigate the changes to the regulations. [Please click here to read it.](#)



This newsletter is intended only to highlight some key pieces of the new legislation and is not a complete summary. Please see the [Act and new Regulations](#) for full details, contact the Privacy Officer at your organization, and/or seek legal advice for guidance on the collection, use, and disclosure of PHI.

