



HEALTH INFORMATION ACCESS AND PRIVACY

A Guide to The
Personal Health Information Act

Your health information is personal and sensitive. Its privacy must be protected. At the same time, you must be able to access your personal health records should the need arise.

In Manitoba, a law called *The Personal Health Information Act* (PHIA) gives you the right to access your personal health information. It also requires the individuals and organizations that keep your personal health records – known as “**trustees**” – to protect the privacy of your information.

What are my rights?

PHIA gives you the right to:

- see and get a copy of your personal health information with limited exceptions, within the time frame that PHIA requires;
- name another person, such as a family member, to access your personal health information on your behalf; and
- request a correction to personal health information that you think is inaccurate or incomplete.

What is personal health information?

Simply put, it is recorded information about you, your health and health care that is held by trustees. It can include:

- your name, address and telephone number
- information about your health, health care history and your family history
- information about the type of care or treatment you are receiving
- your Personal Health Identification Number (PHIN)
- information about payment for your health care

PHIA applies to all recorded personal health information no matter if it is kept in a paper file, on a computer or in any other form.

Who are trustees?

- Health professionals such as doctors, nurses, dentists, pharmacists, physiotherapists and others
- Health care facilities such as hospitals, medical clinics, community health centres and personal care homes
- Health services agencies such as organizations that provide health services in the home
- Manitoba public bodies such as provincial government departments and agencies; municipalities; a regional health authority or a school division, college or university

What if I want to see my information?

You can ask a trustee holding your personal health information for access to it. You may be asked to put your request in writing. Under the law, trustees have a duty to make every reasonable effort to help you and to respond to your request openly, accurately, completely and without delay.

Will I get to see all of my information?

It depends. Trustees must provide you with as much of the information you have requested as possible. But, PHIA sets out limited exceptions where the trustee may refuse to provide you with some information. If the trustee does not provide you with information you asked for, the trustee must:

- inform you in writing,
- tell you the reason why the information cannot be provided, and
- let you know that you have the right to complain to the Manitoba Ombudsman.

Will I have to pay to get my information?

Trustees may charge a reasonable fee for letting you see or providing you with a copy of your personal health information. If you are unable to pay the fee, discuss this with the trustee.

How long do I have to wait?

By law, trustees must respond to your request as promptly as required in the circumstances but no later than:

- 24 hours after receiving it, if you are a patient admitted to hospital and want to see information about the care you are currently receiving;
- 72 hours after receiving it, if you are not a patient admitted to hospital and want to see or get a copy of information about the care you are currently receiving; and
- 30 days after receiving it, in any other case.

What if I disagree with the recorded information?

If you believe your information is inaccurate or incomplete, you can ask the trustee to correct it.

The trustee may decide not to correct your information. If this happens, you must be told in writing:

- the reason the requested correction will not be made;
- that you have the right to file a **statement of disagreement** (see below) with the information that the trustee is holding; and
- that you have the right to make a complaint about the refusal to the Manitoba Ombudsman.

What is a statement of disagreement?

When a trustee refuses to make a correction to your health information that you have asked for, you can object in writing. This “statement of disagreement” should include what you disagree with and what you believe to be accurate. The trustee is required to add this statement of disagreement to your personal health record.

Can someone else do these things on my behalf?

Yes. If you are unable or need help to carry out your rights under PHIA, you can authorize someone else to assist. You do this by giving the trustee a written authorization that sets out who will act and the right(s) that person may carry out on your behalf. For example, you may limit the person assisting you to see or copy only certain information from your personal health record.

If you are unable to give authorization in writing, speak to the trustee about your options.

There may be circumstances where you are not able to authorize another person to act for you. In these circumstances, PHIA sets out who may legally exercise your rights under PHIA on your behalf. If you have no legal representative or your representative is not available, a family member or a close friend may be able to exercise your rights under PHIA on your behalf.

When can trustees share my information?

PHIA permits a trustee to share your personal health information without your consent in certain circumstances. For example, your consent is not required when the purpose of sharing the information is:

- to provide you with health care;
- to get payment for your health care (which may include private health insurance companies);
- for health system planning/research; or
- to report information as required or permitted by law (ex: an infectious disease that is reportable under *The Public Health Act*).

What information can be shared with family, friends and others?

General information about you

If you are a patient or resident in a hospital or personal care home and **unless you tell the trustee not to**, the trustee may share certain information with people who ask about you. This information includes:

- confirming that you are a patient in the facility;
- your general health status such as critical, stable or satisfactory; and
- the room where you are located in the facility.

Information about the health care you are receiving

If you are a patient or resident in a hospital or personal care home, or are receiving care at home from a trustee (ex: home care services), information about the care you are currently receiving may be shared with your family or friends. This information will only be shared if it is good medical or professional practice to do so and the trustee believes it is acceptable to you.

If you do **not** want your information to be shared with family members or friends, you must make the trustee aware of your wishes.

What information can be shared with health care providers?

Your personal health information can only be shared with the doctors, nurses and other members of your health care team who need it to provide you with care. Your health care team may include health care providers who have provided, are currently providing or will be providing your care.

If you wish, however, you can ask a trustee **not** to share your personal health information with a member of your health care team.

Can my information be given to a religious organization?

If you are receiving care in a hospital or personal care home and **unless you tell the facility not to**, the facility can share your name, general health status and location in the facility with a representative of a religious organization. This representative may visit you while you are in the hospital or personal care home.

Can my information be given to a fundraising foundation?

If you are receiving, or have received, care in a hospital, personal care home or other designated health care facility, and **unless you tell the facility not to**, the facility can share your name and mailing address with an associated charitable fundraising foundation. The fundraising foundation may contact you about future charitable donations.

What if I have a complaint about how a trustee has handled my personal health information?

If you have a complaint, you should first speak with the trustee.

You have a right to complain to the Manitoba Ombudsman. The Manitoba Ombudsman Office is an independent authority. The Ombudsman can investigate your complaint about any action or decision of a trustee relating to your access request or the privacy of your personal health information.

In relation to access, you may make a complaint to the Ombudsman if, for example, the trustee:

- did not respond to your access request within the time required by PHIA,
- refused to let you see or provide you with a copy of your personal health information, or
- refused your request for correction to your information.

In relation to the privacy of your personal health information, you may make a complaint to the Ombudsman if you think the trustee did not properly collect, use, share or protect your information.

Who can I contact if I have more questions?

If your questions relate to the access and privacy practices or fees of a specific health care facility, health professional or other trustee who is holding your personal health information, you should first speak with the trustee.

For more information about your rights to access your personal health records or your privacy rights under PHIA, you can also speak to a PHIA contact at Manitoba Health. Call 204-788-6612 or visit:

www.gov.mb.ca/health/phia/index.html

Complaint to the Manitoba Ombudsman

If you wish to learn more about your right to complain to the Manitoba Ombudsman or to file a complaint, contact:

Manitoba Ombudsman
750-500 Portage Avenue
Winnipeg, Manitoba R3C 3X1

Call 204-982-9130 (in Winnipeg) or
1-800-665-0531 (toll free in Manitoba)