



HOUSE USE ONLY

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1st SESSION, 67th GENERAL ASSEMBLY
Province of Prince Edward Island
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(Bill No. 3)

An Act to Amend the Health Information Act

Hon. Mark McLane
Minister of Health and Wellness

GOVERNMENT BILL

Andrea MacRae
Acting King's Printer
Charlottetown, Prince Edward Island



AN ACT TO AMEND THE HEALTH INFORMATION ACT

BILL NO. 3

2023

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. **Section 1 of the *Health Information Act* R.S.P.E.I. 1988, Cap. H-1.41, is amended**
 - (a) **in subclause (e)(ii), by the addition of the words “when not acting as an agent or employee of a custodian,” after the words “health care providers,”; and**
 - (b) **by the repeal of clause (v).**
2. **Clause 8(15)(b) of the Act is amended by the deletion of the word “business”.**
3. **Subsection 21(1) of the Act is amended by the deletion of the words “or from another person in accordance with section 18”.**
4. **Clause 22(5)(h) of the Act is repealed.**
5. **Clause 23(11)(c) of the Act is amended by the addition of the words “designated in the regulations” after the word “custodian”.**
6. **Subsection 25(1) of the Act is amended**
 - (a) **in the words immediately preceding clause (a), by the deletion of the words “in the following situations” and the substitution of the words “before undertaking any of the following”;**
 - (b) **in clauses (a) and (b), by the deletion of the word “for”; and**
 - (c) **in clause (c), by the deletion of the words “if a custodian performs”.**
7. (1) **Subsection 71(2) of the Act is amended by the deletion of the words “If an authorized custodian uses prescribed personal health information pursuant to subsection (1), the authorized custodian shall establish and maintain an electronic access record of the following**

information:” **and the substitution of the words** “The Minister shall ensure that each time prescribed personal health information is accessed in the PEI EHR, the system automatically keeps an electronic record of the following information:”.

(2) Subsection 71(3) of the Act is repealed and the following substituted:

Retention period

(3) The Minister shall ensure that an electronic record created pursuant to subsection (2) is retained in the PEI EHR for at least ten years following the date of the access.

(3) **Subsection 71(4) of the Act is amended by the deletion of the words “authorized custodian” and the substitution of the word “Minister”.**

(4) Subsection 71(5) of the Act is repealed and the following substituted:

Request for access or correction

(5) An individual may make a request to the Minister for access to, a copy of, or the correction of, the individual’s personal health information stored in the PEI EHR and Part 2 shall apply to that request, with any necessary modifications.

8. The Act is amended by the addition of the following after section 71:

71.1 Disclosure for reports, planning, or research

(1) The Minister may disclose to any person non-identifying information or de-identified information stored in the PEI EHR to be used for the purpose of

- (a) reports or planning activities; or
- (b) research that has been approved by a research ethics board.

Disclosure to professional regulatory body

(2) The Minister may disclose, without the consent of the health care provider, information stored in the PEI EHR about the health care provider, other than personal health information, to a professional regulatory body for the purpose of an investigation or hearing into the professional conduct or competence of the health care provider.

71.2 Prohibition

(1) Notwithstanding any other provision of this Act or the regulations, no person other than an authorized custodian shall

- (a) collect prescribed personal health information for the purposes of the PEI EHR;
- (b) use prescribed personal health information stored in the PEI EHR that is not otherwise available to the person, unless the prescribed personal health information is disclosed to the person by an authorized custodian; or
- (c) disclose prescribed personal health information stored in the PEI EHR.

Disclosure by authorized custodians

(2) The disclosure of prescribed personal health information stored in the PEI EHR by an authorized custodian, or a person referred to in clause (1)(b) to whom prescribed personal

health information has been disclosed by an authorized custodian, shall be in accordance with Part 4 of this Act and the regulations, with any necessary modifications.

9. Clause 72(3)(c) of the Act is repealed.

10. (1) Subsection 81(1) of the Act is amended by the addition of the following after clause (m):

(m.1) designating a custodian who compiles or maintains a registry of personal health information for the purpose of clause 23(11)(c);

(2) Clause 81(2)(g) of the Act is repealed.



EXPLANATORY NOTES

SECTION 1 amends the definition of “custodian” to distinguish between health care providers as custodians and as agents or employees of a custodian, and to remove information managers as custodians, as their role is as an agent of a custodian under the Act.

SECTION 2 corrects an erroneous reference to business days.

SECTION 3 removes a requirement to notify an individual when a custodian collects personal information about the individual from a third party as authorized in section 18.

SECTION 4 repeals a redundant clause.

SECTION 5 narrows a requirement to disclose personal health information in a registry to apply only to custodians designated in the regulations.

SECTION 6 amends the subsection to require the submission of a privacy impact assessment before a custodian undertakes an activity specified in the provision.

SECTION 7 amends section 71 of the Act to ensure the PEI EHR automatically creates an electronic record of each time the system is accessed and maintains it for at least ten years. It also provides for an individual to apply to the Minister to access or correct personal health information about the individual held in the system.

SECTION 8 adds a new section 71.1 to the Act, which permits the Minister to disclose non-identifying or de-identified information from the PEI EHR for reports, planning or research activities and information other than personal health information about a health care provider to a professional regulatory body. It also adds a new section 71.2, which prohibits a person other than a custodian from collecting, using or disclosing prescribed personal health information stored in the PEI EHR. It also provides that the disclosure of such information by an authorized custodian shall be in accordance with Part 4 of the Act and the regulations.

SECTION 9 revokes a clause that erroneously refers to an information manager designated in the regulations.

SECTION 10 adds a regulation-making power to designate a custodian who compiles or maintains a registry for the purpose of clause 23(11)(c) of the Act. It also repeals an unnecessary regulation-making power.

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<i>STAGE:</i>	<i>DATE:</i>
<i>1st Reading:</i>	May 16, 2023
<i>2nd Reading:</i>	
<i>To Committee:</i>	
<i>Reported:</i>	
<i>3rd Reading and Pass:</i>	
<i>Assent:</i>	

SIGNATURES:

Honourable Antoinette Perry, Lieutenant Governor

Honourable Darlene Compton, Speaker

Joseph Jeffrey, Clerk

Hon. Mark McLane
Minister of Health and Wellness

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