



Office of the Information and Privacy Commissioner for Nova Scotia

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## Personal Health Information: Frequently Asked Questions

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### ***What is a custodian?***

Under the *Personal Health Information Act (PHIA)* a custodian means an individual or organization who has custody or control of personal health information. For example, your doctor or dentist is a custodian. The Nova Scotia Health Authority and your local pharmacy are also custodians.

### ***How do I correct an error on my personal health records?***

1. Contact the custodian in writing. There is no fee to request a correction.
  - ✓ First, get a copy of the records in question
  - ✓ Make your request in writing
  - ✓ Be specific about what record and what information you want to correct
  - ✓ Provide documentation or evidence of the correct information
2. Review the custodian's response.
  - ✓ The custodian may correct the information you requested
  - ✓ The custodian may make a different decision and give you notice of it
3. If you disagree with the custodian's response or if the custodian does not respond within 30 days you can appeal to the Office of the Information and Privacy Commissioner (OIPC).

### ***I am changing doctors. Can I ask my old doctor to send my records to my new doctor?***

**Yes.** Ask your doctor in writing, but you may be charged a fee to cover the costs. There is no fee if your new doctor requests the records directly from your old doctor.

### ***How do I get a copy of my personal health records?***

Ask the custodian holding your records in writing. You may ask to examine your records or you may ask for a copy of your records. Below are some types of records and the fees you may be charged.

Type of Record	Access Rights	Fees
<b>Record of user activity</b>	<ul style="list-style-type: none"> <li>• A report showing all the times your record was accessed on an electronic system, who accessed the records, and what type of information was accessed</li> <li>• Must be produced for you within 30 days of your request</li> <li>• Request in writing and specify the period of time</li> </ul>	No fee
<b>Visit History</b>	<ul style="list-style-type: none"> <li>• Computerized printout of your individual visits to the health care provider</li> </ul>	Up to \$10
<b>Personal Health Information Record</b>	<ul style="list-style-type: none"> <li>• You may ask to examine your full health records or receive a copy</li> <li>• You may ask that a copy be prepared and sent to a new custodian</li> <li>• Custodian must respond within 30 days</li> <li>• Some access can be refused based on specific exceptions</li> </ul>	Custodians may charge fees. A general fee up to \$30 and other fees based on costs may apply. See the <a href="#">PHIA Fee Fact Sheet</a> for more information

***Can my doctor sell my health information to a fundraiser or a drug company without me knowing?***

**No.** A health custodian cannot disclose your personal health information for fundraising, market research, or marketing of any commercial product or service without your express consent, which is informed consent usually provided in writing.

***Can I access other information from my doctor’s office, the clinic or the hospital?***

**Maybe.** The Nova Scotia Health Authority, the Izaak Walton Killam (IWK) Health Centre, and the Department of Health and Wellness are also considered public bodies under the *Freedom of Information and Protection of Privacy Act (FOIPOP)* legislation, so the access to information laws apply to other types of records held by them. A doctor’s office or other care provider operating a private practice are not covered by the *FOIPOP* legislation. You can always ask for other information, but there is no law that requires them to answer.

## ***What will happen if I file a privacy complaint with the Office of the Information and Privacy Commissioner (OIPC)?***

There are three main stages of a privacy complaint investigation at the OIPC:

1. Intake
2. Investigation & informal resolution
3. Formal review

For more information on the appeal process see [How to Appeal a Decision](#).

If you bring a privacy complaint to the OIPC and the matter does not resolve informally, the formal report will be issued privately to protect your identity. Recommendations to a health custodian may include changes to the way it collects, uses, discloses or secures personal information. If your complaint raises issues affecting the privacy rights of a significant number of people, the OIPC may issue a public report (with all personal information de-identified) describing the health custodian's responsibilities and our recommendations. The OIPC will investigate the circumstances and if the findings do not support your complaint, the OIPC will let you know.

## ***Is there any compensation for a violation of my privacy rights?***

**Maybe.** You may receive an apology from a custodian and help to limit the damage from the breach, but the OIPC cannot get you money or issue penalties to a custodian. You may also receive an explanation for how the custodian intends to prevent a similar breach happening in the future. There are examples of people who have sued a custodian in civil court and received money to compensate for the damage caused by a privacy breach. For more information about civil lawsuits, contact a lawyer.

## ***Why is personal health information treated differently from other personal information?***

Creating a separate law for personal health information ensures that all those involved in collecting and using personal health information are covered. It also ensures that the law is written to address some of the unique considerations that come about in the healthcare setting.

### **Notice**

These guidelines are for information only and do not constitute a decision or finding by the Information and Privacy Commissioner for Nova Scotia with respect to any matter within her jurisdiction. These guidelines do not affect the powers, duties or functions of the Commissioner regarding any complaint, investigation or other matter under or connected with the Commissioner's jurisdiction, respecting which the Commissioner will keep an open mind.