



Office of the Information and Privacy Commissioner for Nova Scotia

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## Know Your Rights

### Glossary: Access to Personal Health Information Terms

### Personal Health Information Act

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Under Nova Scotia's *Personal Health Information Act (PHIA)*, you can request access to your own personal health information records, or to the electronic record of user activity. This document is part of our series entitled, *Know Your Rights* and is intended to help the public understand what their rights are.

The *Personal Health Information Act* applies to many healthcare providers and organizations that are entrusted with the custody and control of health information.

The following describes several terms that appear frequently during the access to personal health information request process. This glossary attempts to break down some of that jargon into clear language. However, it is intended solely as a guide, and though it strives to be as accurate as possible, you should look to the actual legislation for definitive interpretations.

If there is a **bolded** word within the Glossary entry, that term has its own Glossary entry.

**Act** – This is a short way of saying the *Personal Health Information Act*. We use this term to mean both **PHIA** and its **Regulations**.

**Access request** – A formal request that describes the personal health information **record(s)** that the **applicant** wants to access. A request for **personal health information** may be either oral or written. If possible it is best practice to make a written request to have your request documented.

**Agent** – A person who, with authorization of the **custodian**, acts for or on behalf of the custodian in terms of handling **personal health information**. The agent can only collect, use, or disclose personal health information according to the rules under **PHIA** that apply to the custodian.

**Applicant** - The person who makes an **access request** to a **custodian**.

**Commissioner** – Short for **Information and Privacy Commissioner**.

**Custodian** – A regulated health professional or health care organization with custody or control of personal health information for the purpose of delivering health care, covered by the **Act**. Custodians are responsible to respond to **access requests** and to ensure the confidentiality of the **personal health information** in their care and the privacy of the individuals who are the subjects of that information.

**Decision** – The **custodian** must respond to an **access request** by issuing a decision about whether or not the information will be disclosed. If the decision is to not disclose, the custodian must explain why and must explain that the applicant has the right to make a **request for review** to the Commissioner. This duty may be **delegated** to an **agent**.

**Deemed refusal** – A **custodian** has 30 days to respond to an **applicant's access request**, or they must take steps to extend the deadline. If they fail to do either, this is considered to be a **decision** to refuse access to the information, or a “deemed refusal.”

**Disclosure** – The **personal health information** in the **record(s)** that is made available to the **applicant** in response to an **access request**. It also means when a **custodian** makes the information available or releases it to another custodian, a separate entity or another person.

**Discretionary** – Discretion is the power to make a **decision** for good reasons and in good faith, after considering the relevant facts, circumstances, and the applicable sections of the **Act**.

**Electronic information system** – A computer system that generates, sends, receives, stores or otherwise processes **personal health information**.

**Electronic health record** – An **electronic information system** that integrates data from multiple electronic information systems for the purpose of providing a comprehensive record of an individual's **personal health information**.

**Exception** – Also known as an exclusion. A provision of the **Act** that establishes that certain types of information are outside the application of the law.

**Exemption** – While part of the **Act's** purpose is to ensure that **personal health information** is accessible, it also recognizes that there are circumstances where information cannot or should not be disclosed. The reasons why a **custodian** might choose to, or be required to, refuse access to personal health information can be found in the **Act**.

**Fee estimate** – **Custodians** are allowed to charge fees to **applicants** for access to **personal health information**. The costs are defined in the **Regulations** and allow for a maximum general fee of \$30. Additional fees may be charged and must be based on specific costs for work actually performed. Before proceeding with the work and billing, custodians first have to give applicants a reasonably accurate estimate of how much it will cost. Applicants have the right to appeal the custodian's fee estimate to the **Commissioner**. The custodian will not release its **decision** until after either the fees are paid, or the **OIPC** completes its **review** of the fee estimate. Please see our [PHIA Fee Fact Sheet](#) for more details about what work a custodian can charge fees for.

**Fee waiver** – **Applicants** can make a request for a **custodian** to not charge the fees associated with processing the **access request**.

**Findings** – At the conclusion of every **formal review**, the **Commissioner** will state the facts of the matter. These findings will clarify the issues that the **recommendations** will seek to resolve.

**Formal review** – If a **request for review** is not closed by **informal resolution**, it is forwarded to the **Commissioner** to complete the review. The **Commissioner** will consider the **record(s)**, the **representations** provided by all the parties, and will conduct research on the issue(s). Once she has considered this information, the Commissioner will make her decision in the form of a **review report**.

**Identifying information** – Information that directly identifies an individual, or information that could reasonably, under the circumstances, be used alone or in combination with other information to identify an individual.

**Informal resolution** – Is a result or outcome of the **review**. If the **Commissioner** has already written a **review report** on an issue, **OIPC** staff will bring those results to the attention of either the **applicant** or the **custodian**. Because she is generally bound by precedence, the Commissioner will most likely come to the same **finding** each time she is asked to make **recommendations** on an identical issue. Sharing this information often results in a changed **decision** by the custodian or a withdrawn or modified **request for review** by the applicant. It helps to close more files faster than would otherwise be the case if every issue proceeded to a **formal review**.

**Information and Privacy Commissioner** – The head of the **OIPC**. The Commissioner is the only person who can issue **findings** and **recommendations** in response to **requests for review**. Formerly known as the “**Review Officer**” which is the title used in the **Act**.

**OIPC** – Short for Office of the Information and Privacy Commissioner.

**Oversight** – The responsibility and power to **investigate** and assess a **custodian’s** compliance with the **Act**. The **Information and Privacy Commissioner** provides oversight of the **Act**.

**Personal health information** – **Identifying information** about an individual’s health or health care, whether living or deceased, in both recorded and unrecorded forms.

**PHIA** – Short for Personal Health Information Act.

**Reasonable** – Not excessive or extreme but feasible, practical and fair.

**Recommendations** – When a **request for review** results in a **review report**, in addition to the **findings**, the **Commissioner** will make whatever recommendation(s) considered appropriate to solve the issues identified in the findings. It is up to the **custodian** to determine whether or not to accept the recommendations.

**Record** – The thing that holds the **personal health information** an **applicant** is looking for. The information has to be recorded or stored in a retrievable format before it can be requested using the **Act**.

**Record of user activity** – For any **electronic information systems** they use, **custodians** must create or maintain a record of user activity which can be requested under the **Act** by **applicants** at no charge. A record of user activity shows when and which users of the electronic information system have viewed or accessed the applicant’s **personal health information**.

**Redact** – See **sever**.

**Regulations** – Provides more detailed rules on the how to practically apply the **Act**.

**Representations** (also known as submissions) – A communication with the **OIPC** by a party to the review (i.e. the **custodian** or the **applicant**) that describes the party’s position, arguments, evidence and interpretations in relation to the issue(s) under investigation. This can include letters, emails and phone calls among other means of communication. The **Commissioner** considers all representations when preparing the **review report**.

**Responsive record** – the **record(s)** located by the **custodian** in response to an **access request**.

**Review** – A short way to refer to the **request for review** process.

**Review Officer** – This was the title formerly used by the **Information and Privacy Commissioner** and that is used in the **Act**.

**Review report** – This is the formal document, which is normally made public, written by the **Commissioner** at the conclusion of the **formal review**, which includes background, **findings** and **recommendations**.

**Request for review** – A formal, written document that identifies the concerns with the **decision** made by a **custodian** that the **applicant** wants the **Commissioner** to investigate. It is usually done on the **OIPC’s** [Request for Review Form for Access/Correction](#), but it can be in a letter, so long as the letter provides the necessary information to proceed, such as: the details of the **access request** (wording and date), the name of the **custodian** that the access request was submitted to, the **decision** that was made by the custodian, and the part(s) of the decision that the applicant wants investigated.

**RUA** – Short for **record of user activity**.

**Sever** – The most commonly used term for a **custodian’s** act of removing information from a **responsive record**. Usually it is done by whiting out and leaving a blank space in the **disclosure** to the **applicant**. Sometimes it is done with a black marker. Severances are expected to be marked with the section of the **Act** that says the information can be withheld. Sever means the same things as “**redact**” or “**withhold**”.

**Third party** - Any person or group of people who is not the **applicant** or the **custodian**.

**Withhold** – See **sever**.

## QUESTIONS?

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This guide was prepared by the Office of the Information and Privacy Commissioner for Nova Scotia. Whether you are an applicant, custodian, public body, municipality or a third party, we encourage you to contact us if you have any questions about the access to information process in Nova Scotia.

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