

What if your request is refused?

If your request is refused, partially refused or not answered in time, you may request a review by this office.

You do this by making a request in writing to this office. Include a copy of the custodian's decision. You must request a review within 60 days of the custodian's decision. There are no fees or costs charged by the Office of the Information and Privacy Commissioner.

The Information and Privacy Commissioner has extensive powers to investigate and can require that any record be produced for examination, unless the record is protected by solicitor-client privilege.

The Office of the Information and Privacy Commissioner may attempt an informal resolution, mediation, or publish a Review Report containing findings and recommendations. The office cannot release the records, or order the custodian to do so.

In order to file a privacy complaint with the Office of the Information and Privacy Commissioner, you must first have gone through the custodian's internal privacy compliant procedure.

Appeals to the Supreme Court of Nova Scotia

If the custodian declines to follow the recommendations of the Information and Privacy Commissioner, you may appeal that decision to the Nova Scotia Supreme Court. The Supreme Court is the only appeal for claims that a record is protected by solicitor-client privilege.

Where can you get more information?

For more information (or to obtain copies of the forms), please go to our website: www.foipop.ns.ca

To speak to somebody at the Office of the Information and Privacy Commissioner for Nova Scotia

Phone: 902-424-4684
Toll Free: 1-866-243-1564
TTD/TTY: 1-800-855-0511
(Deaf or Hearing Impaired)

Email: oipecns@novascotia.ca

Requests for review and privacy complaints may be sent by mail to:

**Information and Privacy
Commissioner for Nova Scotia**
PO Box 181
Halifax, NS B3J 2M4

or by fax to:
902-424-8303



Office of the Information
& Privacy Commissioner
Nova Scotia



Health
Information

Mini Guide to Health Information

What are your rights?

The *Personal Health Information Act (PHIA)*, gives you the right to access your personal health information (PHI) in the custody or control of a health information custodian.

PHIA also gives you the right to request a record of user activity that shows who accessed your PHI.

If your PHI is not correct, accurate or up to date, you have a right to request a correction. *PHIA* protects the privacy of personal information that is maintained in the records of a custodian. You have the right to challenge custodians' compliance with their obligations under *PHIA*.

What are Custodians?

PHIA applies to all regulated health professionals, as well as the Nova Scotia Health Authority, pharmacies and continuing-care facilities.

Regulated health professionals generally include professionals delivering medical services such as chiropractors, dentists and related professionals, optometrists and opticians, paramedics, pharmacists, physicians, physiotherapists, nurses, and specific home care agencies.

Accessing Personal Health Information

PHIA provides individuals with a right of access to their own PHI. Individuals can gain access to view the records, or to receive a copy of them.

Certain types of PHI can be withheld from the individual at the discretion of the custodian. Specific exemptions include information that is:

- Protected by a legal privilege of the custodian;
- Prohibited from disclosure by another law;
- Collected or created primarily for a custodian's quality review program;

- Collected or created primarily for use in a proceeding that has not been completed;
- Collected or created primarily for an investigation into the individual, if the investigation is still ongoing;
- Reasonably likely to seriously harm the individual's treatment or health;
- Reasonably likely to seriously harm another individual's treatment or health;
- Reasonably likely to identify a confidential informant;
- Reasonably likely to result in release of another person's PHI.

A custodian can refuse to process a request for access to PHI if the request is frivolous, vexatious, or an abuse of the right of access.

Correcting Your Personal Health Information

To have your PHI corrected, you must provide enough evidence to satisfy the custodian that your PHI is not complete, accurate or up to date.

A custodian is not required to correct PHI that was not created by the custodian and where the custodian lacks the expertise to correct the record.

A custodian can refuse to process a request for correction of PHI if the request is frivolous, vexatious, or an abuse of the right of access.

Protecting Your Privacy

Custodians are required to have reasonable security practices in place to protect the privacy of your PHI. These practices include protection against theft or loss, as well as unauthorized handling of PHI. A custodian must have a written privacy policy that explains how you can make a complaint regarding the custodian's privacy practices.

Custodians who store PHI on an electronic information system must create, at your request, a record of user activity that shows who accessed your PHI, what PHI they viewed, and when they viewed it.

How do you exercise your rights?

An access request must provide sufficient detail to permit the identification of the desired records. The custodian is required to confirm your identity before disclosing your PHI to you.

PHIA does not require that a request for access or correction be in writing, and allows a custodian, at his discretion, to respond to requests made verbally. A privacy complaint must be in writing. You should be as specific and detailed as possible when making your request. This will speed up the processing and increase the likelihood that the information you receive will be the information you are asking for.

How much does it cost?

Custodians may charge a general fee of a maximum \$30 for the initial processing of a request for access to PHI. Processing and copying costs may also be charged at the discretion of the custodian. The custodian must provide you with a fee estimate.

Fees may be waived upon request if you cannot afford to pay or for any other reason it is fair to excuse payment.

If you disagree with the fee estimate, or the fees that are charged by a custodian, you may request a review by this office.

When will you get an answer?

A custodian has a maximum of 30 days to respond to a request for access to PHI or a record of user activity. The custodian's privacy policy must state how long it will take to complete a privacy investigation, but that timeline must be no longer than 60 days.

Extensions are permitted under the legislation if:

- replying to the request within 30 days would unreasonably interfere with the activities of the custodian;
- the custodian needs more time to complete required consultations.