



# Personal Health Information Act (PHIA)

## Nova Scotia Department of Health and Wellness

*This month's newsletter features an article by Maria Lasheras, Department of Health and Wellness, as a follow-up to her presentation on PHIA at our recent NSHEN conference.*

In December 2010, the Nova Scotia government passed the Personal Health Information Act (PHIA). This new health information privacy and access legislation is intended to ensure that personal health information management rules in the health sector are clear, consistent and under provincial jurisdiction, and relevant to the electronic health information systems being implemented in Nova Scotia.

The purpose of PHIA is to balance the right of individuals to protect their personal health information and the need of the health sector to collect, use and disclose personal health information to provide, support and manage health care. The legislation was developed specifically for health care in Nova Scotia, including direct patient care, public health, planning and management of the health system, and research. Although PHIA is specific to Nova Scotia, it is consistent with the Pan-Canadian Health Information Privacy and Confidentiality Framework. The Department of Health and Wellness is aiming to have PHIA come into force in winter 2012/2013.

### What is new in PHIA?

There are new elements in PHIA to protect the privacy of personal health information. These include, but are not limited to:

1. The inclusion of "unrecorded" information in the definition of personal health information. Unrecorded information includes the transmission of medical appointments on the Telehealth network, and discussions about an individual's personal health information between a custodian and another person (section 3(r))
2. The introduction of knowledgeable implied consent, which facilitates the collection, use and disclosure of personal health information within an individual's circle of care (section 12)
3. The requirement for every custodian to have a complaint policy (section 62(2))
4. The requirement to be able to provide a record of user activity at the request of an individual who wishes to see who accessed his/her personal health information on an electronic information system (section 63); and
5. The requirement to report a privacy breach to an individual if there was a breach of the individual's personal health information and there is potential for harm or embarrassment to the individual (sections 69-70)

### Implementation of PHIA

Since PHIA was passed in December 2010, the Department of Health and Wellness has been working to implement the legislation in the health sector. Implementation activities include:

#### 1. Development of regulations

The Department has identified several areas where regulations to PHIA are required. They include:

### Access fees

PHIA (s. 82(2)) permits a custodian to charge a fee to an individual who requests a copy or asks to view his/her own personal health information. In November 2011, the Access Fees Working Group was mandated to make recommendations for appropriate fees under the legislation. It is anticipated that these fees will be in regulation.

### Electronic health record/electronic information systems

In November 2010 the Electronic Health Record Working Group was mandated to make recommendations for issues in PHIA related to electronic health records & electronic information systems. The issues include definitions, requirements for records of user activity, and any additional information practices to protect personal health information in an electronic form.

### General regulations

Other regulations may include designations of a program or service as a health care service, and authorization of specific non-custodians to collect an individual's health card number for specified purposes (e.g. Workers' Compensation Board).

## 2. Toolkit for Custodians

The Department of Health and Wellness is developing a toolkit for custodians that is intended to help them understand their obligations under PHIA. The toolkit will provide general reference, best practices, links to additional resources, and templates for forms which may be used by custodians. These templates will include an application for an individual to complete to request access to his/her own medical record, a complaint form, and a brochure for custodians to explain their information management practices.

The toolkit will be posted on the PHIA website and will be updated as the implementation of the legislation evolves.

## 3. Education program for the public and for custodians

The Department of Health and Wellness is developing information to educate the public about their rights under PHIA, and to assist custodians with their understanding of their rights and obligations under PHIA. These will also be available on the PHIA website.

The education program includes the establishment of a toll free telephone number for inquiries about PHIA, which can be used by the public and by custodians, an e-mail address specifically for PHIA issues, and a PHIA website with reference information related to the legislation.

*The fall newsletter will expand this theme as Dr. Jeff Kirby, a member of a DHW working group addressing one aspect of PHIA's implementation, discusses some of the ethical implications associated with the implementation of this relatively new legislation.*



Where can you find more information on PHIA?

<http://www.gov.ns.ca/health/phia/>

902.424.5419, or toll free at 1.855.640.4765

[phia@gov.ns.ca](mailto:phia@gov.ns.ca)

[http://www.gov.ns.ca/health/phia/PHIA\\_FAQ.pdf](http://www.gov.ns.ca/health/phia/PHIA_FAQ.pdf)

NSHEN currently has a library of books that may be of interest to you. Please contact the Administrator for the title listing or to arrange a book loan.

Questions?  
Comments? Want to join the mail list?

### Contact NSHEN!

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### NSHEN 2012 Annual Conference

NSHEN has decided to have our annual conference during the fall, rather than the usual date of early March. This will enable more people to attend due to budgets and weather. This year's conference will be **October 24, 2012** at the Best Western in Burnside, Dartmouth NS. This will be a one-day conference for just this year. In 2013 we will bring back the pre-conference. The topic for October is Ethics of Efficiency? Working in a Moral Environment. Registration will be available shortly online. Please check our website regularly for more information as it becomes available.

## NSHEN: Coming Events...

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| <b>Sept 19, 2012</b> | Ethics Committee 101 Workshop. Super 8 Hotel, Amherst. Registration closes Aug 19, 2012. Details available on our website                                  |
| <b>Sept 26, 2012</b> | NSHEN Education Telehealth. Ethics in Long Term Care. 12pm-1pm. Contact your local telehealth provider for location information in your area.              |
| <b>Oct 24, 2012</b>  | NSHEN Annual Conference. Ethics of Efficiency? Working in a Moral Environment. Best Western Hotel, Burnside, Dartmouth NS. Registration will be open soon. |

*If there are any topics you would like to see discussed in our Newsletter or Telehealth Education sessions, please let us know!*

### What Makes NSHEN Unique?

While there are other ethics networks and centres across the country, there are a few features that make NSHEN unique within Canada.

- \* Our collaborative structure facilitates dialogue between partners
- \* Our strategic goals are collectively established by the collaborating partners
- \* NSHEN involves academia, government, and health care organizations in a single network

This results in a network that is innovative, efficient, and responsive to ethics needs in Nova Scotia.