LEGAL REQUIREMENTS OF AN "AGENT" UNDER CANADIAN HEALTH INFORMATION STATUTES

Statute	Definition of Agent	Obligations of Custodians when they share PHI with their Agents	Obligations of Agents when they receive PHI from Custodians
Ontario *Personal Health Information Protection Act*, S.O. 2004, c. 3, Sch. A *Ontario Regulation 329/04: General* ("Ontario Regulation")	**Agents** **2** "agent", in relation to a health information custodian, means a person that, with the authorization of the custodian, acts for or on behalf of the custodian in respect of personal health information for the purposes of the custodian, and not the agent's own purposes, whether or not the agent has the authority to bind the custodian, whether or not the agent is employed by the custodian and whether or not the agent is being remunerated; **Interpretation** **6 (1)** For the purposes of this Act, the providing of personal health information between a health information custodian and an agent of the custodian is a use by the custodian, and not a disclosure by the person providing the information or a collection by the person to whom the information is provided.	**Agents and information** **17 (1)** A health information custodian is responsible for personal health information in the custody or control of the health information custodian and may permit the custodian's agents to collect, use, disclose, retain or dispose of personal health information on the custodian's behalf only if, (a) the custodian is permitted or required to collect, use, disclose, retain or dispose of the information, as the case may be; (b) the collection, use, disclosure, retention or disposal of the information, as the case may be, is necessary in the course of the agent's duties and is not contrary to this Act or another law; and (c) the prescribed requirements, if any, are met. **17 (1.1)** A permission granted to an agent under subsection (1) may be subject to such conditions or restrictions as the health information custodian may impose. **Responsibilities of health information custodian** **17 (3)** A health information custodian shall, (a) take steps that are reasonable in the circumstances to ensure that no agent of the custodian collects, uses, discloses, retains or disposes of personal health information unless it is in accordance with subsection (2); and (b) remain responsible for any personal health information that is collected, used, disclosed, retained or disposed of by the custodian's agents, regardless of whether or not the collection, use, disclosure, retention or disposal was carried out in accordance with subsection (2).	**Agents** **37 (2)** If subsection (1) authorizes a health information custodian to use personal health information for a purpose, the custodian may provide the information to an agent of the custodian who may use it for that purpose on behalf of the custodian. **Restriction, collection, use, etc. by agents** **17 (2)** Subject to any exception that may be prescribed, an agent of a health information custodian may collect, use, disclose, retain or dispose of personal health information only if, (a) the collection, use, disclosure, retention or disposal of the information, as the case may be, (i) is permitted by the custodian in accordance with subsection (1), (ii) is necessary for the purpose of carrying out his or her duties as agent of the custodian, (iii) is not contrary to this Act or another law, and (iv) complies with any conditions or restrictions that the custodian has imposed under subsection (1.1); and (b) the prescribed requirements, if any, are met. […] **Exception to s. 17 (2) of the Act [*Ontario Regulation*]** **7.** The following are prescribed as exceptions to subsection 17 (2) of the Act: 1. An agent of a health information custodian to whom the custodian provides information to use for the purposes of clause 37 (1) (d) of the Act may use that information, together with other such information that the agent has received from other custodians to use for the purposes of that clause, for the purposes of systemic risk management analysis if,

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			i. the agent is the Canadian Medical Protective Association or the Healthcare Insurance Reciprocal of Canada, and ii. the agent does not disclose personal health information provided to it by one health information custodian to another custodian. **Responsibilities of the agent** **17 (4)** An agent of a health information custodian shall, (a) comply with the conditions or restrictions imposed by the health information custodian on the agent's collection, use, disclosure, retention or disposal of personal health information under subsection (1.1); and (b) notify the custodian at the first reasonable opportunity if personal health information that the agent collected, used, disclosed, retained or disposed of on behalf of the custodian is stolen or lost or if it is used or disclosed without authority. **Offences** **72(3)** If a corporation commits an offence under this Act, every officer, member, employee or other agent of the corporation who authorized the offence, or who had the authority to prevent the offence from being committed but knowingly refrained from doing so, is a party to and guilty of the offence and is liable, on conviction, to the penalty for the offence, whether or not the corporation has been prosecuted or convicted.
Alberta	**1(1)** In this Act, (a) "affiliate", in relation to a custodian, means	**Duty to protect health information**	**Collection of health information by affiliate**

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Health Information Act, R.S.A. 2000, c. H-5 *Health Information Regulation*, Alta Reg 70/2001 ("Alberta HI Reg.")	(i) an individual employed by the custodian, (ii) a person who performs a service for the custodian as an appointee, volunteer or student or under a contract or agency relationship with the custodian, (iii) a health services provider who is exercising the right to admit and treat patients at a hospital as defined in the Hospitals Act, (iv) an information manager as defined in section 66(1), and (v) a person who is designated under the regulations to be an affiliate, but does not include (vi) an agent as defined in the Health Insurance Premiums Act, or (vii) a health information repository other than a health information repository that is designated in the regulations as an affiliate;	**60(1)** A custodian must take reasonable steps in accordance with the regulations to maintain administrative, technical and physical safeguards that will […] (d) otherwise ensure compliance with this Act by the custodian and its affiliates. **Duty to identify responsible affiliates** **62**(1) Each custodian must identify its affiliates who are responsible for ensuring that this Act, the regulations and the policies and procedures established or adopted under section 63 are complied with. **Duty to establish or adopt policies and procedures** **63(1)** Each custodian must establish or adopt policies and procedures that will facilitate the implementation of this Act and the regulations. **Security of health information [***Alberta HI Reg.***]** **8(6)** A custodian must ensure that its affiliates are aware of and adhere to all of the custodian's administrative, technical and physical safeguards in respect of health information. **8(7)** A custodian must establish sanctions that may be imposed against affiliates who breach, or attempt to breach, the custodian's administrative, technical and physical safeguards in respect of health information. **Offences and penalties** **107(1)** No custodian or affiliate of a custodian shall knowingly (a) alter, falsify or conceal any record, or direct another person to do so, with the intent to evade a request for access to the record, or (b) destroy any record that is subject to this Act, or direct another person to do so, with the intent to evade a request for access to the record.	**24** An affiliate of a custodian must not collect health information in any manner that is not in accordance with the affiliate's duties to the custodian. **Use of health information by affiliate** **28** An affiliate of a custodian must not use health information in any manner that is not in accordance with the affiliate's duties to the custodian. **Disclosure of health information by affiliate** **43** An affiliate of a custodian must not disclose health information in any manner that is not in accordance with the affiliate's duties to the custodian. **Duty to notify** **60.1(1)** Subject to the regulations, an affiliate of a custodian must as soon as practicable notify the custodian in accordance with the regulations of any loss of individually identifying health information or any unauthorized access to or disclosure of individually identifying health information in the custody or control of the custodian. **Duty to identify responsible affiliates** **62** (2) Any collection, use or disclosure of health information by an affiliate of a custodian is considered to be collection, use or disclosure by the custodian. (3) Any disclosure of health information to an affiliate of a custodian is considered to be disclosure to the custodian. (4) Each affiliate of a custodian must comply with (a) this Act and the regulations, and (b) the policies and procedures established or adopted under section 63. **Disclosure to Commissioner**

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			83(1) An affiliate of a custodian may disclose to the Commissioner any health information that the affiliate is required to keep confidential and that the affiliate, acting in good faith, believes is being collected, used or disclosed in contravention of this Act. (2) The Commissioner must investigate and review any disclosure made under subsection (1). (3) If an affiliate makes a disclosure under subsection (1), the Commissioner must not disclose the identity of the affiliate to any person without the affiliate's consent. (4) An affiliate is not liable to a prosecution for an offence under any Act for disclosing health information to the Commissioner unless the affiliate was acting in bad faith. (5) In carrying out an investigation and review under this section, the Commissioner has all of the powers and duties set out in sections 76, 77, 80(1) to (5), 88 and 91, and sections 89, 90, 92 and 94 apply. **Protection of employee** **106**(1) A custodian or a person acting on behalf of a custodian must not take any action against its affiliate to negatively affect its status as an affiliate of the custodian because the affiliate, acting in good faith, (a) has exercised or may exercise a right under section 83, or (b) has properly disclosed information in accordance with this Act. (2) A person who contravenes subsection (1) is guilty of an offence and liable to a fine of not more than $10 000. **Offences and penalties** **107(1)** No custodian or affiliate of a custodian shall knowingly (a) alter, falsify or conceal any record, or direct another person to do so, with the intent to evade a request for access to the record, or

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			(b) destroy any record that is subject to this Act, or direct another person to do so, with the intent to evade a request for access to the record. **107 (1.2)** No affiliate of a custodian shall fail to comply with section 60.1(1). **107 (6)** A person who contravenes this section, except subsections (1.1), (1.2) or (5.1) is guilty of an offence and liable to a fine of not more than $50,000. **107 (7)** A person (*who is not an individual*) who contravenes subsection (1.1), (1.2) or (5.1) is guilty of an offence and liable […] to a fine of not less than $200,000 and not more than $500,000.
New Brunswick *Personal Health Information Privacy and Access Act*, S.N.B. 2009, c. P-7.05	**1** The following definitions apply in this Act. "agent", in relation to a custodian, means an information manager or an individual or organization that acts for or on behalf of the custodian in respect of personal health information for the purposes of the custodian and not for the agent's own purposes, whether or not the information manager, individual or organization is remunerated by the custodian, but does not include an employee of the custodian. **3**(1) This Act applies	**General duties of custodians** **32(3)** A custodian shall limit the use of personal health information it maintains to those employees and agents of the custodian who need to know the information to carry out the purpose for which the information was collected or received or to carry out any of the permitted uses authorized under section 34. **35(2)**Every disclosure by a custodian of personal health information shall be limited to the minimum amount of information necessary to accomplish the purpose for which it is disclosed. **(3)** A custodian shall limit the disclosure of personal health information it maintains to those employees and agents of the custodian who need to know the information to carry out the purpose for which the information was collected or received or to carry out a purpose authorized under section 37.	**Agents and information managers** **52(1)** A custodian that retains the services of an agent for the collection, use, disclosure or retention of personal health information shall enter into a written agreement with the agent requiring the agent to comply with the custodian's legal obligations regarding handling of personal health information.

	(a) to personal health information that is collected, used or disclosed by a custodian or an agent or that is in the custody or control of a custodian or an agent, and […]	**Security safeguards** **50(3)** Without limiting subsection (1), a custodian shall (a) implement controls that limit the persons who may use personal health information maintained by the custodian to those specifically authorized by the custodian to do so, (b) implement controls to ensure that personal health information maintained by the custodian cannot be used unless (i) the identity of the person seeking to use the information is verified as a person the custodian has authorized to use it, and (ii) the proposed use is verified as being authorized under this Act, (c) if the custodian uses electronic means to request disclosure of personal health information or to respond to requests for disclosure, implement procedures to prevent the interception of the information by unauthorized persons, (d) when responding to requests for disclosure of personal health information, ensure that the request contains sufficient detail to uniquely identify the individual to whom the information relates, and (e) ensure agents of the custodian adhere to the safeguards. […] **Agents and information managers** **52(1)** A custodian that retains the services of an agent for the collection, use, disclosure or retention of personal health information shall enter into a written agreement with the agent requiring the agent to comply with the custodian's legal obligations regarding handling of personal health information.	
Nova Scotia *Personal Health Information Act*, S.N.S. 2010, c. 41	**3** In this Act, (a) "agent", in relation to a custodian, means a person who, with the authorization of the custodian, acts for or on behalf of the custodian in respect of personal health information for the purposes of the custodian, and not the	**Minimum amount** **25 (1)** The collection, use and disclosure of personal health information must be limited to the minimum amount of personal health information necessary to achieve the purpose for which it is collected, used and disclosed. **(2)** For greater certainty, (a) in respect of the use of personal health information by a custodian, the custodian shall limit the use of personal health	**28** (2) Except as permitted or required by law and subject to the exceptions and additional requirements, if any, that are prescribed, an agent of a custodian shall not collect, use, disclose, retain, destroy or dispose of personal health information on the custodian's behalf unless the custodian permits the agent to do so in accordance with subsection (1).

Personal Health Information Regulations, NS Reg 217/2012 ("PHI Regulations")	agent's purposes, whether or not the agent has the authority to bind the custodian, is paid by the custodian or is being remunerated by the custodian, and includes, but is not limited to, an employee of a custodian or a volunteer who deals with personal health information, a custodian's insurer, a lawyer retained by the custodian's insurer or a liability protection provider;	information in its custody or under its control to those of its agents who need to know the information to carry out the purpose for which the information was collected or a purpose authorized under this Act; **Custodian's responsibility** **28 (1)** A custodian is responsible for personal health information in the custody or control of the custodian and may permit the custodian's agent to collect, use, disclose, retain, destroy or dispose of personal health information on the custodian's behalf only if (a) the custodian is permitted or required to collect, use, disclose, retain, destroy or dispose of the information, as the case may be; (b) the collection, use, disclosure, retention, destruction or disposition of the information, as the case may be, is in the course of the agent's duties and not contrary to the limits imposed by the custodian, this Act or another law; and (c) the prescribed requirements, if any, are met. **29 (1)** Where a custodian is authorized to use personal health information for a purpose, the custodian may provide the information to an agent who may use it for that purpose on behalf of the custodian. **(2)** For the purpose of this Act, the providing of personal health information between a custodian and an agent of the custodian is a use by the custodian, and not a disclosure by the custodian or a collection by the agent. **Consent not required for custodian use of information** **35 (2)** Where subsection (1) authorizes a custodian to use personal health information for a purpose, the custodian may provide the information to an agent of the custodian who may use it for that purpose on behalf of the custodian.	(3) An agent of a custodian shall notify the custodian at the first reasonable opportunity if personal health information handled by the agent on behalf of the custodian is stolen, lost or accessed by unauthorized persons. **Disclosing information without consent and review process** **38(7)** An agent or former agent who receives personal health information under clauses 38(1) (n),(o),(p) or (q) or under subsection 35(2) for the purpose of a proceeding or contemplated proceeding may disclose the information to the agent's or former agent's professional advisor for the purpose of providing advice or representation to the agent or former agent if the advisor is under a professional duty of confidentiality. **Offences** **108** Where a corporation commits an offence under this Act, every officer, member, employee or other agent of the corporation who authorized the offence, or who had the authority to prevent the offence from being committed but knowingly refrained from doing so, is a party to and guilty of the offence and is liable on conviction to the penalty for the offence, whether or not the corporation has been prosecuted or convicted.
Newfoundland and Labrador	**2.** (1) In this Act	**Obligations of employees, etc.** **14.** (1) A custodian shall ensure that	**Obligations of employees, etc.** **14.** (1) A custodian shall ensure that

Personal Health Information Act, S.N.L. 2008, c. P-7.01	(a) "agent", in relation to a custodian, means a person that, with the authorization of the custodian, acts for or on behalf of the custodian in respect of personal health information for the purposes of the custodian, and not the agent's purposes, whether or not the agent has the authority to bind the custodian, is paid by the custodian or is being remunerated by the custodian;	(a) its employees, agents, contractors and volunteers; and […] take an oath or affirmation of confidentiality. (2) A custodian's employees, agents, contractors and volunteers, and those health care professionals who have the right to treat persons at a health care facility operated by the custodian shall comply with (a) this Act and the regulations; and (b) the information policies and procedures referred to in subsection **13(1)**. (3) A custodian shall ensure that its employees, agents, contractors and volunteers, and those health care professionals who have the right to treat persons at a health care facility operated by the custodian are aware of the duties imposed by this Act and the regulations and the information policies and procedures referred to in section 13. […] **Information practices, policies and procedures** **13.** (1) A custodian that has custody or control of personal health information shall establish and implement information policies and procedures to facilitate the implementation of, and ensure compliance with, this Act and the regulations respecting the manner of collection, storage, transfer, copying, modification, use and disposition of personal information whether within or outside the province. (2) The information policies and procedures referred to in subsection (1) shall include policies and procedures to (a) protect the confidentiality of personal health information that is in its custody or under its control and the privacy of the individual who is the subject of that information; (b) restrict access to an individual's personal health information by an employee, agent, contractor or volunteer of the custodian or by a health care professional who has the right to treat persons at a health care facility operated by the custodian to only that information that the employee, agent, contractor, volunteer or health care professional requires to carry out the purpose for which the information was collected or will be used; (c) protect the confidentiality of personal health information that will be stored or used in a jurisdiction outside the province	(a) its employees, agents, contractors and volunteers; and […] take an oath or affirmation of confidentiality. (2) A custodian's employees, agents, contractors and volunteers, and those health care professionals who have the right to treat persons at a health care facility operated by the custodian shall comply with (a) this Act and the regulations; and (b) the information policies and procedures referred to in subsection **13(1)**. (3) A custodian shall ensure that its employees, agents, contractors and volunteers, and those health care professionals who have the right to treat persons at a health care facility operated by the custodian are aware of the duties imposed by this Act and the regulations and the information policies and procedures referred to in section 13. […] **Information practices, policies and procedures** **13.** (1) A custodian that has custody or control of personal health information shall establish and implement information policies and procedures to facilitate the implementation of, and ensure compliance with, this Act and the regulations respecting the manner of collection, storage, transfer, copying, modification, use and disposition of personal information whether within or outside the province. (2) The information policies and procedures referred to in subsection (1) shall include policies and procedures to (a) protect the confidentiality of personal health information that is in its custody or under its control and the privacy of the individual who is the subject of that information; (b) restrict access to an individual's personal health information by an employee, agent, contractor or volunteer of the custodian or by a health care professional who has the right to treat persons at a health care facility operated by the custodian to only that information that the employee, agent, contractor, volunteer or health care professional requires to carry out the purpose for which the information was collected or will be used; (c) protect the confidentiality of personal health information that will be stored or used in a jurisdiction outside the province

		or that is to be disclosed by the custodian to a person in another jurisdiction and the privacy of the individual who is the subject of that information; and (d) provide for the secure storage, retention and disposal of records to minimize the risk of unauthorized access to or disclosure of personal health information. (3) The information policies and procedures referred to in subsection (1) shall include appropriate measures to address the risks associated with the storage of personal health information, taking into account the manner and form in which the personal health information is recorded, the location of storage and the degree of sensitivity of the personal health information to be protected. **Scope of use** **35.** A custodian shall limit the use of personal health information in its custody or under its control to those of its employees and agents who need to know the information to carry out the purpose for which the information was collected or a purpose authorized under this Act.	or that is to be disclosed by the custodian to a person in another jurisdiction and the privacy of the individual who is the subject of that information; and (d) provide for the secure storage, retention and disposal of records to minimize the risk of unauthorized access to or disclosure of personal health information. (3) The information policies and procedures referred to in subsection (1) shall include appropriate measures to address the risks associated with the storage of personal health information, taking into account the manner and form in which the personal health information is recorded, the location of storage and the degree of sensitivity of the personal health information to be protected.
Prince Edward Island *Health Information Act, R.S.P.E.I. 1988, c. H-1.41*	**1. Definitions** **In this Act** **(a)** "agent", in relation to a custodian, means a person that, with the authorization of the custodian, acts on behalf of the custodian in respect of personal health information for the purposes of the custodian, and not the agent's purposes, whether or not the agent has the authority to bind the custodian, is paid by the custodian or is being remunerated by the custodian, and includes, but is not limited to, an employee of a custodian or a volunteer who deals with personal health information, a	**Use of personal health information** **22. (3)** A custodian shall limit the use of personal health information it maintains to those employees and agents of the custodian who need to know the personal health information to carry out the purpose for which the personal health information was collected or received or to carry out any of the permitted uses authorized under this section. **Limitation on disclosure of personal health information** **23. (3)** A custodian shall limit the disclosure of personal health information it maintains to those employees and agents of the custodian who need to know the personal health information to carry out the purpose for which the information was collected or received or to carry out a purpose authorized under this section. **Disclosure required by law** **24 (9)** A custodian or an agent of a custodian shall disclose personal health information without the consent of the individual to whom it	**Disclosure permitted for health or safety reasons** **24 (5)** Where a custodian discloses personal health information under clause (4)(a) to or on behalf of an agent or former agent of the custodian, the agent or former agent may disclose the personal health information to the agent's or former agent's professional adviser for the purpose of providing advice or representation to the agent or former agent, if the adviser is under a professional duty of confidentiality to the agent or former agent. **Disclosure required by law** **24 (9)** A custodian or an agent of a custodian shall disclose personal health information without the consent of the individual to whom it relates if the disclosure is required by an enactment or an Act of the Parliament of Canada or by a treaty, agreement or arrangement made under an enactment or an Act of the Parliament of Canada. **41. Written agreement with agent of custodian**

	custodian's insurer, a lawyer retained by a custodian's insurer or a liability protection provider;	relates if the disclosure is required by an enactment or an Act of the Parliament of Canada or by a treaty, agreement or arrangement made under an enactment or an Act of the Parliament of Canada. **Controls and safeguards** **39. (4)** Without limiting the generality of subsection (1), a custodian shall (a) implement controls that limit the persons who may use personal health information maintained by the custodian to those specifically authorized by the custodian to do so, including where appropriate the restriction of access to an individual's personal health information by an employee, agent, contractor or volunteer of the custodian or by a health care professional who has the right to treat persons at a health care facility operated by the custodian to only that personal health information that the employee, agent, contractor, volunteer or health care professional requires to carry out the purpose for which the personal health information was collected or will be used; (b) implement safeguards and controls to ensure that personal health information maintained by the custodian cannot be used unless (i) the identity of the person seeking to use the personal health information is verified as a person the custodian has authorized to use it, and (ii) the proposed use is verified as being authorized under this Act; (c) if the custodian uses electronic means to request disclosure of personal health information or to respond to requests for disclosure, implement procedures to prevent the interception of the personal health information by unauthorized persons; (d) provide for the secure storage, retention and disposal of records to minimize the risk of unauthorized access to or disclosure of personal health information; (e) when responding to requests for disclosure of personal health information, ensure that the request contains sufficient detail to	A custodian that retains the services of an agent for the collection, use, disclosure, retention or secure destruction of personal health information shall enter into a written agreement with the agent requiring the agent to comply with (a) the duties imposed on the agent under the agreement; and (b) the same requirements concerning the protection, retention and secure destruction of personal health information that the custodian is required to comply with under this Act.

		uniquely identify the individual to whom the information relates; and (f) ensure agents of the custodian adhere to the safeguards and controls implemented to protect personal health information. **41. Written agreement with agent of custodian** A custodian that retains the services of an agent for the collection, use, disclosure, retention or secure destruction of personal health information shall enter into a written agreement with the agent requiring the agent to comply with (a) the duties imposed on the agent under the agreement; and (b) the same requirements concerning the protection, retention and secure destruction of personal health information that the custodian is required to comply with under this Act.	
Yukon *Health Information Privacy and Management Act*, S.Y. 2013, c.16. *Health Information General Regulation* O.I.C. 2016/159 ("General Regulation")	**2(1)** In this Act "agent" of a custodian means a person (other than a person who is prescribed not to be an agent of the custodian) who acts for or on behalf of the custodian in respect of personal health information, including for greater certainty such a person who is (a) an employee of the custodian, (b) a person who performs a service for the custodian under a contract or agency relationship with the custodian, (c) an appointee, volunteer or student, (d) an insurer or liability protection provider, (e) an information manager,	**Collection, use and disclosure only in accordance with this Act** **13** A person who is a custodian or the agent of a custodian may collect, use, disclose and access personal health information only in accordance with this Act and the regulations. **When other information suffices** **15** A person who is a custodian or the agent of a custodian must not collect, use or disclose personal health information if other information will serve the purpose of the collection, use or disclosure. **Minimum to be collected, used or disclosed** **16** The collection, use and disclosure of personal health information by a custodian or their agent must be limited to the minimum amount of personal health information that is reasonably necessary to achieve the purpose for which it is collected, used or disclosed. **Legal requirement** **17** Sections 13, 15 and 16 do not apply to the extent that a law, including an order of a court or other order that has the force of law,	**Collection, use and disclosure only in accordance with this Act** **13** A person who is a custodian or the agent of a custodian may collect, use, disclose and access personal health information only in accordance with this Act and the regulations. **When other information suffices** **15** A person who is a custodian or the agent of a custodian must not collect, use or disclose personal health information if other information will serve the purpose of the collection, use or disclosure. **Minimum to be collected, used or disclosed** **16** The collection, use and disclosure of personal health information by a custodian or their agent must be limited to the minimum amount of personal health information that is reasonably necessary to achieve the purpose for which it is collected, used or disclosed. **Legal requirement** **17** Sections 13, 15 and 16 do not apply to the extent that a law, including an order of a court or other order that has the force of law,

	(f) if the custodian is a corporation, an officer or director of the corporation, or (g) a prescribed person; « mandataire » **2(1)** In this Act "use" in relation to personal health information in the custody or control of a person includes (a) […] (b) the transmission of the personal health information between a custodian and an agent of that custodian; « utiliser » **2(3)** For greater certainty, a person may be an agent of a custodian whether or not the person has the authority to bind the custodian and whether or not the person is employed by or otherwise receives remuneration from the custodian. **Deemed agents** **4(1)** For the purposes of this Act (a) a health care provider who admits a patient to, provides health care to a patient at, or discharges a patient from a health facility prescribed for the purposes of this subsection or a hospital is deemed to be, in doing so, an agent of the health facility or hospital; and	requires the collection, use or disclosure of, or access to, personal health information. **Responsibilities of custodians and agents** **49** A custodian must take reasonable measures to ensure that its agents comply with this Act and the regulations. **Duties of agent** **50(1)** A custodian may permit its agent to collect, use, disclose, retain, destroy or dispose of personal health information on the custodian's behalf only if (a) the custodian is permitted or required to collect, use, disclose, retain, destroy or dispose of the information, as the case may be; (b) the collection, use, disclosure, retention, destruction or disposition of the information, as the case may be, is in the course of the agent's duties and is not contrary to the limits imposed by the custodian, this Act or any other enactment; (c) the custodian allows the agent to use only that personal health information that the agent needs in order to carry out the purpose for which it was collected or a purpose for which use is authorized under this Act; and (d) the prescribed requirements, if any, are met. **Role of Minister** **72(2)(c)** establish eligibility requirements for custodians and requirements in respect of agents; *General Regulation* **Custodians' information practices** **14(1)** For the purposes of section 19 of the Act, a custodian must, in respect of personal health information that is in the custodian's custody or control (a) for each of the custodian's agents	requires the collection, use or disclosure of, or access to, personal health information. **Responsibilities of custodians and agents** **49** A custodian must take reasonable measures to ensure that its agents comply with this Act and the regulations. **Duties of agent** **50(1)** A custodian may permit its agent to collect, use, disclose, retain, destroy or dispose of personal health information on the custodian's behalf only if (a) the custodian is permitted or required to collect, use, disclose, retain, destroy or dispose of the information, as the case may be; (b) the collection, use, disclosure, retention, destruction or disposition of the information, as the case may be, is in the course of the agent's duties and is not contrary to the limits imposed by the custodian, this Act or any other enactment; (c) the custodian allows the agent to use only that personal health information that the agent needs in order to carry out the purpose for which it was collected or a purpose for which use is authorized under this Act; and (d) the prescribed requirements, if any, are met. **(2)** Except as permitted or required by law, an agent of a custodian must not collect, use, disclose, retain, destroy or dispose of personal health information on the custodian's behalf unless the custodian permits the agent to do so in accordance with subsection (1). **(3)** An agent of a custodian must notify the custodian at the first reasonable opportunity if a security breach has occurred in relation to any personal health information handled by the agent. **Role of Minister** **72(2)(c)** establish eligibility requirements for custodians and requirements in respect of agents;

	(b) a person who is an information manager for or on behalf of a custodian, is deemed to be an agent of the custodian.	(i) determine the personal health information that the agent is authorized to access, (ii) ensure that the agent signs a pledge of confidentiality that includes an acknowledgment that the agent is bound by the Act and is aware of the consequences of breaching it, and (iii) where appropriate, provide privacy and security orientation and ongoing training; […] (i) address the privacy and security risks of an agent's remote access to the custodian's information system, including through the use of the agent's own mobile electronic communication device.	**Offences** **123** Where a corporation or other body corporate commits an offence under this Act, every officer, member, employee or other agent of the corporation or body corporate who authorized the offence, or who had the authority to prevent the offence from being committed but knowingly refrained from doing so, is a party to and guilty of the offence and is liable on summary conviction to the penalty for the offence, whether or not the corporation or body corporate has been prosecuted or convicted.
Northwest Territories *Health Information Act*, S.N.W.T. 2014, c. 2 *Health Information Regulations*, R-089-2015 ("Regulations")	**1. (1)** "agent", except in paragraphs 25(1)(g) and 115(b) and (c), subsection 151(6) and section 193, means a person or organization listed in subsection 9(2) that is authorized by subsection 9(1) to act as an agent; (mandataire) **Agents: authorization** **9. (1)** A person or organization listed in subsection (2) may act as an agent for or on behalf of a health information custodian in respect of the powers, duties and functions of the custodian under this Act relating to the collection, use, disclosure, management, retention or disposition of personal health information, if (a) the custodian is permitted or required to collect, use, disclose, manage, retain or dispose of the information; and	**Standards, Policies and Procedures Required** **8. (1)** A health information custodian shall establish or adopt standards, policies and procedures to implement the requirements of this Act and the regulations, including the requirements under sections 85 to 88 (measures for protection of information; duty to notify in the event of breach; and measures to ensure accuracy of personal health information). **Compliance with Act and regulations** **10. (2)** A health information custodian shall take reasonable measures to ensure that its agents comply with this Act and the regulations. **Compliance required: standards, policies and procedures** **11. (2)** A health information custodian shall take reasonable measures to ensure that its agents comply with standards, policies and procedures established or adopted under subsection 8(1). **Immunity from liability** **180.** No action lies against the Government of the Northwest Territories, an officer or employee of the Government, a health information custodian or an agent or any other person acting under the direction of a custodian or agent, for	**Unauthorized act** **9(3)** A person or organization listed in paragraphs (2)(a) to (d) shall not (a) collect, use, disclose, manage, retain or dispose of personal health information in the course of the exercise of powers or the performance of duties or functions for a health information custodian, unless the person or organization may do so under subsection (1); or (b) collect, use, disclose, manage, retain or dispose of personal health information contrary to any limits imposed by the custodian. **Compliance with Act and regulations** **10. (1)** An agent shall comply with this Act and the regulations in the collection, use and disclosure of personal health information and in the exercise of other powers of a health information custodian and the performance of other duties and functions of a health information custodian. **Compliance required: standards, policies and procedures** **11. (1)** An agent shall comply with standards, policies and procedures established or adopted by a health information custodian under subsection 8(1).

	(b) the collection, use, disclosure, management, retention or disposition of the information is in the course of the exercise of assigned powers or the performance of assigned duties or functions of the person or organization for the custodian. **List of eligible agents** **9(2)** Each of the following persons and organizations may act as an agent for or on behalf of a health information custodian if authorized by subsection (1) to do so: (a) an employee of the custodian; (b) a person who performs a service for the custodian as an appointee, volunteer, student or under a contract or agency relationship; (c) an information manager for the custodian; (d) a prescribed person, class of persons or organization.	(a) providing or withholding, in good faith, any information under this Act; (b) any consequences that flow from providing or withholding, in good faith, any information under this Act; or (c) the failure to give notice required under this Act, if reasonable care is taken to give the required notice. **Prohibition against penalizing agent** **183.** A health information custodian shall not penalize an agent who, in good faith, (a) provides information or gives evidence in a proceeding under Part 6 to the Information and Privacy Commissioner or to a person employed in or engaged by the Office of the IPC; (b) participates in a proceeding under Part 6; or (c) discloses information in accordance with this Act. *Regulations* **14.** A health information custodian shall […] (c) take reasonable disciplinary measures against an agent who fails to comply with a provision of the Act, these regulations or any standard, policy, procedure or safeguard relating to the Act or these regulations, having regard for (i) the nature of the breach, (ii) whether the breach was intentional or not, and (iii) whether the agent has previously committed a breach.	**Immunity from liability** **180.** No action lies against the Government of the Northwest Territories, an officer or employee of the Government, a health information custodian or an agent or any other person acting under the direction of a custodian or agent, for (a) providing or withholding, in good faith, any information under this Act; (b) any consequences that flow from providing or withholding, in good faith, any information under this Act; or (c) the failure to give notice required under this Act, if reasonable care is taken to give the required notice. **Offences** **193.** If a corporation commits an offence, any officer, director, agent or employee of the corporation who directed, authorized, assented to, acquiesced in, or participated in the commission of the offence is a party to and guilty of the offence, and is liable on conviction to the punishment provided for the offence, whether or not the corporation has been prosecuted for the offence or convicted.