ACCESSPRIVACY BY OSLER

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

Jurisdiction and Statute	Definition of "Information Manager"	Permissions and Obligations	Content of Information Agreement	Offences
Alberta *Health Information Act*, R.S.A. 2000, c. H-5 *Health Information Regulation*, Alta Reg 70/2001 ("Alberta HI Reg.")	**66(1)** In this section, "information manager" means a person or body that: (a) processes, stores, retrieves or disposes of health information, (b) in accordance with the regulations, strips, encodes or otherwise transforms individually identifying health information to create non-identifying health information, or (c) provides information management or information technology services.	**Duty to protect health information** **66** (2) A custodian must enter into a written agreement with an information manager in accordance with the regulations for the provision of any or all of the services described in subsection (1). (3) A custodian that has entered into an agreement with an information manager may provide health information to the information manager without the consent of the individuals who are the subjects of the information for the purposes authorized by the agreement. (4) An information manager to which information is provided pursuant to subsection (3) may use or disclose that information only for the purposes authorized by the agreement. (5) An information manager must comply with (a) this Act and the regulations, and (b) the agreement entered into with a custodian (6) Despite subsection (5)(a), a custodian continues to be responsible for compliance with this Act and the regulations in respect of the information provided by the custodian to the information manager. (7) A custodian that is an information manager for another custodian does not become a custodian of the health information provided to it	*Required content of the agreement are set out in s. 7.2 of Alberta HI Reg.* **7.2** For the purposes of section 66(2) of the Act, an agreement between a custodian and an information manager must (a) identify the objectives of the agreement and the principles to guide the agreement, (b) indicate whether or not the information manager is permitted to collect health information from any other custodian or from a person and, if so, describe that health information and the purpose for which it may be collected, (c) indicate whether or not the information manager may use health information provided to it by the custodian and, if so, describe that health information and the purpose for which it may be used, (d) indicate whether or not the information manager may disclose health information provided to it by the custodian and, if so, describe that health information and the purpose for which it may be disclosed, (e) describe the process for the information manager to respond to access requests under Part 2 of the Act or, if the information manager is not to respond to access requests, describe the process for	**107** (4) No information manager shall knowingly breach the terms and conditions of an agreement entered into with a custodian pursuant to section 66.

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		in its capacity as an information manager, but nothing in this section prevents the custodian from otherwise collecting, using or disclosing that same health information in accordance with this Act.	referring access requests for health information to the custodian itself, (f) describe the process for the information manager to respond to requests to amend or correct health information under Part 2 of the Act or, if the information manager is not to respond to requests to amend or correct health information, describe the process for referring access requests to amend or correct health information to the custodian itself, (g) describe how health information provided to the information manager is to be protected, managed, returned or destroyed in accordance with the Act, (h) describe how the information manager is to address an expressed wish of an individual relating to the disclosure of that individual's health information or, if the information manager is not to address an expressed wish of an individual relating to the disclosure of that individual's health information, describe the process for referring these requests to the custodian itself, and (i) set out how an agreement can be terminated.	
Saskatchewan *Health Information Protection Act*,	**2** (j) "information management service provider" means a person who or body that processes, stores, archives or destroys records of a	**Information management service provider**		**64**(1.1) No trustee or information management service provider, or former trustee or information management service provider, shall fail to keep

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S.S. 1999, c. H-0.021 *Health Information Protection Regulations*, R.R.S. c. H-0.021 Reg.1	trustee containing personal health information or that provides information management or information technology services to a trustee with respect to records of the trustee containing personal health information, and includes a trustee that carries out any of those activities on behalf of another trustee, but does not include a trustee that carries out any of those activities on its own behalf;	**18**(1) A trustee may provide personal health information to an information management service provider: (a) for the purpose of having the information management service provider process, store, archive or destroy the personal health information for the trustee; (b) to enable the information management service provider to provide the trustee with information management or information technology services; (c) for the purpose of having the information management service provider take custody and control of the personal health information pursuant to section 22 when the trustee ceases to be a trustee; or (d) for the purpose of combining records containing personal health information. (3) An information management service provider shall not use, disclose, obtain access to, process, store, archive, modify or destroy personal health information received from a trustee except for the purposes set out in subsection (1). (5) If a trustee is also an information management service provider and has received personal health information from another trustee in accordance with subsection (1), the trustee receiving the information is deemed to be an information management service provider for the purposes of that personal health information and		secure the personal health information in its custody or control as required by this Act. (3.1) An individual who is an employee of or in the service of a trustee or information management service provider and who knowingly discloses or directs another person to disclose personal health information in circumstances that would constitute an offence by the trustee or information management service provider pursuant to this Act is guilty of an offence and is liable on summary conviction to a fine of not more than $50,000, to imprisonment for not more than one year or to both, whether or not the trustee or information management service provider has been prosecuted or convicted. (3.3) An individual who is an employee of or in the service of an information management service provider and who wilfully accesses or uses or directs another person to access or use personal health information for a purpose that is not authorized by subsection 18(1) of this Act is guilty of an offence and is liable on summary conviction to a fine of not more than $50,000, to imprisonment for not more than one year or to both, whether or not the information management service provider has been prosecuted or convicted.

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		does not have any of the rights and duties of a trustee with respect to that information.		
Manitoba *Personal Health Information Act*, C.C.S.M. c. P33.5 *Personal Health Information Regulation*, 245/97	**1**(1) "information manager" means a person or body that (a) processes, stores or destroys personal health information for a trustee, or (b) provides information management or information technology services to a trustee;	**25**(1) A trustee may provide personal health information to an information manager for the purpose of processing, storing or destroying it or providing the trustee with information management or information technology services. (2) An information manager may use personal health information provided to it under this section only for the purposes and activities mentioned in subsection (1), which must be purposes and activities that the trustee itself may undertake. (3) A trustee who wishes to provide personal health information to an information manager under this section must enter into a written agreement with the information manager that provides for the protection of the personal health information against such risks as unauthorized access, use, disclosure, destruction or alteration, in accordance with the regulations. (4) An information manager shall comply with (a) the same requirements concerning the protection, retention and destruction of personal health information that the trustee is required to comply with under this Act; and (b) the duties imposed on the information manager under the agreement entered into under subsection (3).		**63**(3) A trustee, information manager or health research organization who (a) collects, uses, sells or discloses personal health information contrary to this Act; (b) fails to protect personal health information in a secure manner as required by this Act; or (c) discloses personal health information contrary to this Act with the intent to obtain a monetary or other material benefit or to confer such a benefit on a trustee or other person; is guilty of an offence. (4) No trustee, information manager or health research organization shall be found to have contravened clause (3)(a) or (b) if the trustee, information manager or health research organization can establish that he or she took all reasonable steps to prevent the contravention.

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		(5) Personal health information that has been provided to an information manager under an agreement described in subsection (3) is deemed to be maintained by the trustee for the purposes of this Act.		
New Brunswick *Personal Health Information Privacy and Access Act*, S.N.B. 2009, c. P-7.05 *General Regulation*, N.B. Reg. 2010-112	**1** The following definitions apply in this Act. "information manager" means an individual or organization that on behalf of a custodian (a) processes, stores, retrieves, archives or disposes of personal health information, (b) de-identifies or otherwise transforms personal health information, or (c) provides information management or information technology services.	**38**(1) A custodian may disclose personal health information relating to an individual without the consent of the individual if the disclosure is (f) to an information manager in accordance with this Act, **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. (2) A custodian may provide personal health information to an information manager for the purpose of processing, storing or destroying the personal health information or providing the custodian with information management or information technology services. (3) A custodian that wishes to provide personal health information to an information manager shall enter into a written agreement with the information manager, in accordance with the regulations, that provides for the protection of the personal health information against risks such as unauthorized access to or use or disclosure,	*Required content of the agreement are set out in s. 21 of the General Regulation.* **21** A written agreement for the provision of personal health information between a custodian and information manager referred to in subsection 52(3) of the Act shall describe (a) the services to be provided to the custodian, and (b) the administrative, technical and physical safeguards employed by the information manager relating to the confidentiality, security, accuracy and integrity of the personal health information.	**76**(3) A custodian or information manager commits an offence if the custodian or information manager (a) collects, uses, sells or discloses personal health information contrary to this Act, (b) fails to protect personal health information in a secure manner as required by this Act, (c) discloses personal health information contrary to this Act with the intent of obtaining a monetary or other material benefit or to confer a benefit on a custodian or other person, or (d) takes any adverse employment action against an employee because the employee has complied with a request or requirement to produce a record or provide information or evidence to the Ombud, or a person acting for or under the direction of the Ombud, under this Act. (4) No custodian or information manager shall be found to have contravened paragraph (3)(a) or (b) if the custodian or information manager can establish that he or she took all reasonable steps to prevent the contravention.

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		secure destruction or alteration of the information. (4) An information manager who enters into a written agreement under subsection (3) shall comply with (a) the duties imposed on the information manager 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.		
Newfoundland and Labrador *Personal Health Information Act*, S.N.L. 2008, c. P-7.01 *Personal Health Information Regulations*, N.L.R. 38/11	**2** (1) In this Act (l) "information manager" means a person or body, other than an employee of a custodian acting in the course of his or her employment, that (i) processes, retrieves, stores or disposes of personal health information for a custodian, or (ii) provides information management or information technology services to a custodian;	**22** (1) A custodian that retains the services of an information manager for the provision of a service described in paragraph 2(1)(l) shall enter into an agreement with the information manager in accordance with subsection (2). (2) An agreement referred to in subsection (1) shall be in writing and shall provide for the protection of the personal health information against unauthorized access, use, disclosure, disposition, loss or modification in accordance with this Act and the regulations. (3) An information manager to which personal health information is disclosed by the custodian may use or disclose that information only for the purpose authorized by the agreement. (4) An information manager shall comply with (a) this Act and the regulations; and		**88**(2) A custodian or information manager who (a) collects, uses or discloses personal health information contrary to this Act; (b) fails to protect personal health information in a secure manner as required by this Act; or (c) discloses personal health information contrary to this Act with the intent to obtain a monetary or other material benefit or to confer such a benefit on another person, is guilty of an offence and liable, on summary conviction, to a fine of not more than $10,000 or to imprisonment for a term not exceeding 6 months, or to both. (3) A custodian or information manager shall not be found to have contravened paragraph (2)(a) or (b) if the custodian or information manager can establish that all reasonable steps were taken to prevent the contravention.

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		(b) the terms of the agreement entered into with the custodian in respect of the personal health information disclosed to it under subsection (2). (5) An information manager shall not permit its employee or a person acting on its behalf to access the personal health information disclosed to it by the custodian unless the employee or person acting on its behalf agrees in writing to comply with this Act and the restrictions imposed upon the information manager referred to in subsection (4). (6) Nothing in subsection (4) or (5) relieves a custodian from its obligations under this Act and the regulations in respect of the personal health information disclosed by the custodian to the information manager, and the personal health information that has been disclosed to an information manager under an agreement under subsection (2) is considered to continue in the custody and control of the custodian for the purpose of this Act and the regulations. (7) An information manager may, in accordance with the terms of an agreement with a custodian, construct or create an integrated electronic record of personal health information comprising individual records, the custody or control of each of which may be in one or more custodians. **Disclosure for health related purposes** **39.** (1) A custodian may disclose personal health information without the consent of the individual who is the subject of the information		

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		(f) to an information manager in accordance with section 22;		
Prince Edward Island *Health Information Act, R.S.P.E.I. 1988, c. H-1.41*	**1. Definitions** In this Act (q) **"information manager"** means a person or organization that on behalf of a custodian (i) possesses, stores, retrieves, archives or disposes of personal health information, (ii) de-identifies or otherwise transforms personal health information, or (iii) provides information management or information technology services;	**Disclosure without consent permitted** **23** (13) A custodian may disclose personal health information relating to an individual without the consent of the individual if the disclosure is (f) to an information manager in accordance with this Act; **42** Provision of personal health information to information manager (1) A custodian may provide personal health information to an information manager for the purpose of processing, storing or destroying the personal health information or providing the custodian with information management or information technology services. (2) A custodian that proposes to provide personal health information to an information manager shall enter into a written agreement with the information manager that provides for the protection of the personal health information against risks such as unauthorized access to or use or disclosure, secure destruction or alteration of the personal health information. **43.** An information manager who enters into a written agreement under subsection 42(2) shall comply with (a) the duties imposed on the information manager under the agreement; and		**78** (3) Any person commits an offence if the person (a) collects, uses or discloses personal health information contrary to this Act; (b) subject to subsection (4), sells or discloses for consideration personal health information; (c) fails to protect personal health information in a secure manner as required by this Act; (d) discloses personal health information contrary to this Act with the intent of obtaining a monetary or other material benefit or to confer a benefit on a custodian or other person; or (e) takes any adverse employment action against an employee because the employee has complied with a request or requirement to provide personal health information or evidence to the Commissioner, or a person acting for or under the direction of the Commissioner, under this Act. (6) No custodian or information manager shall be found to have contravened clause (3)(a) or (b) if the custodian or information manager can establish that he or she took all reasonable steps to prevent the contravention.

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		(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 "information manager" means a person (other than a person who is prescribed not to be an information manager) who, for or on behalf of a custodian (a) processes, stores, retrieves, archives or disposes of information, (b) strips, encodes or otherwise transforms identifying information to create information that is not identifying information, (c) provides information management or information technology services, or (d) provides a prescribed service; **4**(1) For the purposes of this Act (b) a person who is an information manager for or on behalf of a custodian is deemed to be an agent of the custodian.	**51**(1) A custodian who proposes to retain the services of an information manager must (a) enter into a written agreement with the information manager that provides for the protection of the information that is the subject of the services; and (b) comply with the prescribed requirements, if any. (2) An information manager who enters into a written agreement under subsection (1) must (a) comply with the duties imposed on the information manager under the agreement and the prescribed requirements, if any; and (b) notify the custodian at the first reasonable opportunity of any breach of the agreement by the information manager.	*Required content of the agreement are set out in s. 21 of the General Regulation.* **21** When entering into a written agreement with an information manager in respect of personal health information under section 51 of the Act, a custodian must (a) ensure that the agreement allows the custodian to maintain control of the personal health information; and (b) ensure that the agreement contains provisions which (i) identify the objectives of the agreement and the principles that guide the agreement, (ii) describe the types or classes of personal health information (referred to in this section as the "relevant personal health information") that the information manager may collect, use or disclose under the agreement, the purposes for which it may be collected, used or disclosed and any limitations or conditions on its collection, use or disclosure, (iii) require the information manager (A) to allow the custodian to access or otherwise obtain the relevant personal	

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			health information at any time, subject only to necessary operational constraints, (B) to forward immediately to the custodian any access or correction request that is made in relation to the relevant personal health information, (C) to maintain administrative, technical and physical safeguards that meet or exceed the safeguards required of the custodian under the Act to ensure the confidentiality, security and integrity of the relevant personal health information, and (D) to inform the custodian promptly of the information manager's receipt of any requirement issued in a proceeding, including any summons, warrant or order, that relates to the relevant personal health information and that it is reasonable to believe may be enforceable in the jurisdiction in which the information manager operates or in which the relevant personal health information is located, (iv) prohibit the information manager from subcontracting, without the custodian's written consent, any of the services to which the agreement relates, (v) allow the custodian to monitor and verify compliance with the agreement by the information manager,	

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			(vi) allow the custodian to terminate the agreement in the event of a breach of the agreement by the information manager, and (vii) set out that on termination of the agreement (A) the personal health information to which the agreement applies must be transferred to the custodian, in an electronic format that the custodian can readily use, while (I) ensuring ongoing access to the personal health information by the custodian, and (II) requiring the information manager to cooperate fully with the custodian during the transfer, and (B) following completion of the transfer, the information manager must securely destroy all records of the personal health information to which the agreement applies that remain in its custody.	
Northwest Territories *Health Information Act*, S.N.W.T. 2014, c. 2 *Health Information Regulations*, R-089-2015	**1 (1)** " "information manager" means a person or organization that provides one or more of the following services for a health information custodian: (a) the processing, storage, retrieval or disposal of personal health information, (b) the transforming of personal health information, including the	**13** (1) In this section, "information management agreement" means an agreement in writing in respect of the protection of personal health information and privacy of individuals the information is about; "private custodian" means a health information custodian other than a public custodian. (2) Subject to subsection (3) and any exceptions set out in the regulations, before using the services of an information manager, a health	**13** (4) An information management agreement must contain terms under which the information manager agrees to comply with (a) this Act and the regulations, and standards, policies and procedures established or adopted by the health information custodian under subsection 8(1);	

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("Regulations")	transforming of personal health information to create or produce non-identifying information, (c) information management services, information system services or information technology services;"	information custodian shall enter into an information management agreement with the information manager. Exceptions (3) Subsection (2) does not apply if (a) the health information custodian is the Department, and (i) the Department's information manager is an employee in the public service who is employed in the Department, (ii) the Department's information manager is another public custodian, or (iii) the Department's information manager is employed by another public custodian; (b) the health information custodian is a public custodian other than the Department, and (i) the public custodian's information manager is an employee in the public service who is employed in the Department, (ii) the public custodian's information manager is employed by the public custodian or by a public custodian other than the Department, (iii) the public custodian's information manager is another public custodian, or (iv) the public custodian's information manager is one with which the Department has entered into an information management agreement on behalf of the custodian; or	(b) measures to maintain administrative, technical and physical safeguards for the protection of the personal health information; and (c) any other terms or conditions of the agreement.	

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		(c) the health information custodian is a private custodian, and (i) the private custodian's information manager is an employee of the custodian, or (ii) the private custodian's information manager is one with which the Department has entered into an information management agreement on behalf of the custodian. (5) A health information custodian that has entered into an information management agreement under subsection (2) may disclose personal health information to the information manager in accordance with the agreement. (6) If the Department enters into an information management agreement with an information manager on behalf of a health information custodian, as referred to in subparagraphs (3)(b)(iv) and (c)(ii), that custodian may disclose personal health information to the information manager in accordance with the agreement. (7) For greater certainty, a health information custodian may have more than one information manager and may, subject to the exceptions set out in this Act or the regulations, disclose personal health information to each information manager without the consent of the individuals the information is about. (8) An information manager to which personal health information is disclosed shall not		

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		(a) collect, use or disclose that information except in accordance with the information management agreement; or (b) contravene the terms of an information management agreement.		

LEGAL REQUIREMENTS OF JURISDICTIONS WITHOUT STATUTORILY DEFINED "INFORMATION MANAGER"

Jurisdiction and Statute	Description of Requirements
Ontario *Personal Health Information Protection Act*, S.O. 2004, c. 3, Sch. A ('PHIPA") *Ontario Regulation 329/04: General* ("Ontario Regulation")	While Ontario's *PHIPA* does not contain the term "Information Manager", there are two entities that would fit under the category of information managers: electronic service providers and a particular type of electronic service provider, health information network providers (HINPs). **Electronic Service Providers** An electronic service provider is "a person who provides goods or services for the purpose of enabling a health information custodian to use electronic means to collect, use, modify, disclose, retain or dispose of personal health information shall comply with the prescribed requirements, if any." (s. 10 (4), PHIPA) The "prescribed requirements" are set out in s. 6(1) of the Ontario Regulation: 6. (1) Except as otherwise required by law, the following are prescribed as requirements for the purposes of subsection 10 (4) of the Act with respect to a person who supplies services for the purpose of enabling a health information custodian to use electronic means to collect, use, modify, disclose, retain or dispose of personal health information, and who is not an agent of the custodian: 1. The person shall not use any personal health information to which it has access in the course of providing the services for the health information custodian except as necessary in the course of providing the services. 2. The person shall not disclose any personal health information to which it has access in the course of providing the services for the health information custodian. 3. The person shall not permit its employees or any person acting on its behalf to be able to have access to the information unless the employee or person acting on its behalf agrees to comply with the restrictions that apply to the person who is subject to this subsection. O. Reg. 329/04, s. 6 (1). **Health Information Network Providers** The term "health information network provider" is defined at s. 6(2) of the Ontario Regulation: 6. (2) In subsection 3, "health information network provider" or "provider" means a person who provides services to two or more health information custodians where the services are provided primarily to custodians to enable the custodians to use electronic means to disclose personal health information to one another, whether or not the person is an agent of any of the custodians. Requirements are prescribed at s. 6(3) of the Ontario Regulation: 6. (3) The following are prescribed as requirements with respect to a health information network provider in the course of providing services to enable a health information custodian to use electronic means to collect, use, disclose, retain or dispose of personal health information:

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	1. The provider shall notify every applicable health information custodian at the first reasonable opportunity if, i. the provider accessed, used, disclosed or disposed of personal health information other than in accordance with paragraphs 1 and 2 of subsection (1), or ii. an unauthorized person accessed the personal health information. 2. The provider shall provide to each applicable health information custodian a plain language description of the services that the provider provides to the custodians, that is appropriate for sharing with the individuals to whom the personal health information relates, including a general description of the safeguards in place to protect against unauthorized use and disclosure, and to protect the integrity of the information. 3. The provider shall make available to the public, i. the description referred to in paragraph 2, ii. any directives, guidelines and policies of the provider that apply to the services that the provider provides to the health information custodians to the extent that these do not reveal a trade secret or confidential scientific, technical, commercial or labour relations information, and iii. a general description of the safeguards implemented by the person in relation to the security and confidentiality of the information. 4. The provider shall to the extent reasonably practical, and in a manner that is reasonably practical, keep and make available to each applicable health information custodian, on the request of the custodian, an electronic record of, i. all accesses to all or part of the personal health information associated with the custodian being held in equipment controlled by the provider, which record shall identify the person who accessed the information and the date and time of the access, and ii. all transfers of all or part of the information associated with the custodian by means of equipment controlled by the provider, which record shall identify the person who transferred the information and the person or address to whom it was sent, and the date and time it was sent. 5. The provider shall perform, and provide to each applicable health information custodian a written copy of the results of, an assessment of the services provided to the health information custodians, with respect to, i. threats, vulnerabilities and risks to the security and integrity of the personal health information, and ii. how the services may affect the privacy of the individuals who are the subject of the information. 6. The provider shall ensure that any third party it retains to assist in providing services to a health information custodian agrees to comply with the restrictions and conditions that are necessary to enable the provider to comply with this section. 7. The provider shall enter into a written agreement with each health information custodian concerning the services provided to the custodian that, i. describes the services that the provider is required to provide for the custodian, ii. describes the administrative, technical and physical safeguards relating to the confidentiality and security of the information, and

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	iii. requires the provider to comply with the Act and the regulations. *** Individuals/entities that are acting as information managers could fall within the larger category of "agents" for the purposes of PHIPA, in which case they would be required to comply with the appropriate provisions. See the AccessPrivacy Topic Hub, Agents.

British Columbia
Personal Information Protection Act, SBC 2003, c. 63 ("BC PIPA")
Personal Information Protection Act Regulations, B.C. Reg. 473/2003
Freedom of Information and Protection of Privacy Act ("BC FIPPA")
B.C. Reg. 155/2012 ("BC FIPPA Regulation")
	"Information Manager" is not a term used in any of B.C's privacy legislation, and neither BC PIPA nor BC FIPPA prescribes specific requirements for service provider arrangements.
	The Guidance documents set out herein provide information that is expected to be included in service providers agreements.
	Content of Information-Sharing Agreements (s. 19, E-Health Act) ***[Note: the following requirements only apply when personal health information contained in a "health information bank" is disclosed.]***
	An information-sharing agreement must identify all of the following:
	• the persons, by name, title, position or class, who may collect, use or disclose information under the agreement;
	• the circumstances in which information may be disclosed under the agreement;
	• the limits, if any, on
	  ○ the disclosure of information by the administrator under the agreement, and
	  ○ the use or disclosure of the information obtained under the agreement by persons identified under paragraph (a);
	• the conditions, if any, on the disclosure of information under the agreement, including conditions respecting
	  ○ security and confidentiality,
	  ○ the removal or destruction of individual identifiers at the earliest reasonable time,
	  ○ the prohibition of any subsequent use or disclosure of personal health information without express authorization, and
	  ○ the monitoring of compliance with the agreement;
	• the term of the agreement and the circumstances in which the agreement may be renewed, suspended or terminated.
	An information-sharing agreement must include a requirement that
	• protected information disclosed under the agreement will not be used or disclosed for the purpose of market research, and

Jurisdiction and Statute	Description of Requirements
E-Health (Personal Health Information Access and Protection of Privacy) Act, SBC 2008, c. 38 ("E-Health Act")	if disclosure is for a health research purpose, the person to whom information is disclosed must comply with (i) the data stewardship committee's policies and procedures established under the Act, and (ii) any conditions imposed under the Act. The BC OIPC published a Guidance Document on Information Sharing Agreements (2017) for organizations subject to BC's PIPA and public bodies subject to BC's FIPPA that sets out generally what information sharing agreements should include or address: 1. A statement of the purpose for the disclosure. 2. The legal authority to disclose the data for that purpose and the legal authority for the collection by the public body or organization to which the data is being disclosed. 3. A description of the data that will be disclosed that is as specific and comprehensive as possible (i.e.: the nature and type of data elements, as well as the quantity of data). 4. A description of how the data will be disclosed (such as direct access to a database or a specific data flow versus indirect access via email from the originating party, and in response to a request or at regular intervals). 5. Where possible, a description of who within a public body or organization will have access to the data and any other disclosure restrictions. This could enable the disclosing public body or organization to limit further disclosure of the shared data. 6. A description of the authorized use of the data and limits on further use of the data. 7. A clear statement about who has custody and control of the data. This may be needed because parties to the agreement will likely have custody of the shared data, while one party could maintain control over managing that information. 8. An undertaking to protect the data in a certain manner (i.e.: particular administrative, technical, and physical safeguards to protect the data adequately given its sensitivity). 9. A description of any restrictions on the storage and access of personal information outside of Canada (BC FIPPA includes a requirement to keep personal data in Canada). 10. A description of the process to ensure accuracy of the data, including the process to update and correct personal information if needed. 11. A specific retention period and directions on secure destruction when the retention period expires. 12. A description of the process for managing privacy breaches, complaints, and incidents. 13. Methods for monitoring compliance with the information sharing agreement and consequences for noncompliance. 14. Term of the information sharing agreement and process for amendment and renewal. The BC Physician Privacy Toolkit (2017), published by the OIPC BC, the BC Medical Association, and the College of BC Physicians and Surgeons, provides, at page 21 and following: Before Entering into Agreement • The service providers have effective and comprehensive information management practices that are at least equal to those implemented by the practice.

Jurisdiction and Statute	Description of Requirements

	• Contracts include the appropriate security arrangements and privacy protection clauses. These requirements should be monitored and enforced. For service providers that frequently handle sensitive personal information as part of the contract, the practice should undertake audits to verify compliance.
	
	<u>Content of Written Agreement</u>
	
	• The contract should include:
	  ○ All applicable privacy laws and require the service provider to comply with these as well as their own privacy laws and policies.
	  ○ The purposes for which the personal information can be collected, used, or disclosed based on the patient's initial consent and restrictions on any further use to those purposes, except as permitted or required by law.
	  ○ Who will maintain custody or control of the personal information.
	  ○ All reasonable physical, administrative, and technical safeguards to protect the personal information from unauthorized access, collection, use, disclosure, copying, modification or disposal, or similar risks.
	  ○ Any financial or other consequences that may result from non-compliance with the contract.
	• The contract should bind service providers to:
	  ○ Only collect, use, access, and retain the information provided to them as identified in the contract and only allow access to subcontractors that the practice is aware of and has approved.
	  ○ Allow the practice access to its information upon request, and never deny access because of a disputed payment for services.
	  ○ Notify the practice if any personal information has been lost, stolen, used, or accessed in an unauthorized manner.
	  ○ Report any privacy breach or security incident within an agreed-upon timeframe.
	  ○ Return or destroy personal information when the contract ends as specified.
	• It is recommended that only service providers who operate their services within Canada be engaged. If using a service providers that does operate some or all portions of their services out-of-country for a variety of reasons, the Guidance recommends that the contract should specify:
	  ○ Where personal information is being stored, who has access, what security provisions are in place, and from what locations personal information may be accessed (e.g., if there is remote access for support).
	  ○ That the service provider is bound to BC's privacy requirements.

Jurisdiction and Statute	Description of Requirements

	• If personal health information is shared with external organizations or third parties (e.g., external health organizations) on a routine and regular basis, an information-sharing agreement (ISA) must be in place. Clear rules must be established to govern how personal information is exchanged and how to ensure that the least amount of information necessary to achieve a stated purpose is used.
	• ISAs usually:
	  ○ Define what personal health information means.
	  ○ Describe the purpose for data sharing.
	  ○ Reference all applicable legislation that provides the legal authority for collection, use, and disclosure of personal information.
	  ○ Establish an understanding of who has custody and control.
	  ○ Identify the type of information that each party will share with each other.
	  ○ Identify the uses for the information and limitations on the uses to the specified purpose.
	  ○ Describe who will have access and under what conditions.
	  ○ Describe how the information will be exchanged.
	  ○ Describe the process for ensuring accuracy.
	  ○ Describe the process for managing privacy breaches, complaints, and incidents.
	  ○ Identify retention periods.
	  ○ Identify secure destruction methods when retention expires.
	  ○ Describe the security safeguards in place to protect information.
	  ○ Describe termination of the agreement procedures.
	• Model Service-Provider Contract provisions are included at page 86.
	The British Columbia Provincial Government also publishes a Privacy Protection Schedule for contracts, which covers most of the above requirements.

Nova Scotia *Personal Health Information*	**Note:** Nova Scotia does not have provisions specific to an "Information Manager". However, individuals/entities that are acting as information managers could fall within the larger category of "agents" for the purposes of PHIA, in which case they would be required to comply with the appropriate provisions. See the AccessPrivacy Topic Hub, Agents.

Jurisdiction and Statute	Description of Requirements
Act, S.N.S. 2010, c. 41 *Personal Health Information Regulations*, NS Reg 217/2012 ("PHI Regulations")	