Changes to Ontario's Personal Health Information Protection Act: Clarity for Health Teams?

April 21, 2022

On April 14, 2022, Ontario's Bill 106, *Pandemic and Emergency Preparedness Act*, 2022 (Bill 106) received royal assent. According to the Government of Ontario, the purpose of Bill 106 is to "prepare Ontario for future pandemics and threats". Bill 106 seeks to accomplish its stated objective, in part, by introducing changes to Ontario's *Personal Health Information Protection Act, 2004* (PHIPA) that will facilitate the sharing of personal health information in electronic and other formats.

Background

PHIPA governs the collection, use and disclosure of personal health information within the provincial health sector, including by health information custodians, individuals, and organizations that receive personal health information from custodians. PHIPA also provides individuals with rights that relate to their personal health information, including the right to access a copy of the individuals' personal health information that is in the custody or under the control of a custodian (subject to limited exceptions).

Summary of PHIPA changes

Key changes to PHIPA:

- **Alternative formats for electronic records:** PHIPA's existing individual right of access provisions expressly include the right of an individual to access a record of personal health information in an electronic format that meets the prescribed requirements and restrictions (none of which were prescribed as of the date of this bulletin). **Bill 106 will amend PHIPA to permit Ontario Health (the Agency) to specify electronic formats for providing access, including requirements, conditions, restrictions or exceptions that the Agency may impose in its discretion**.
- **New regulations for Ontario Health Teams:** In 2019, the Government of Ontario sought to revolutionize provincial health care delivery by introducing Ontario Health Teams – groups of health care providers and organizations

specifically authorized by the Ministry of Health and Long-Term Care (the Ministry) to be clinically and fiscally accountable for delivering a full and coordinated continuum of care to a defined geographic population. **Bill 106 will amend PHIPA to provide the Ministry with new powers to enact regulations regarding the collection, use, and disclosure of personal health information by Ontario Health Teams**. Bill 106 contemplates that the Ministry's regulations, once enacted, will enhance the ability of Ontario Health Teams to handle personal health information and thereby help Ontario Health Teams to plan, implement and improve the delivery of health care.

Takeaway

Health information custodians and other persons subject to PHIPA should pay attention to new regulations promulgated under PHIPA.

The new regulation-making powers in respect of Ontario Health Teams are particularly interesting. Currently, PHIPA permits health information custodians in an Ontario Health Team to disclose personal health information to each other based on implied consent under PHIPA's "circle of care" provisions. Because the circle of care applies only to health information custodians, Ontario Health Teams members that are not health information custodians (such as community housing providers) face issues with participating in the circle of care. New regulations might provide welcome clarity for information sharing among all members of Ontario Health Team members.

For questions about the proposed changes to Bill 106, please reach out to any of the authors or key contacts listed below.

By

Katherine M. Stanger, Shane Morganstein, Marc Vani

Expertise

Cybersecurity, Privacy & Data Protection, Health Law

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 800 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

blg.com

BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2026 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.