OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER
NEWFOUNDLAND AND LABRADOR

Report AH-2026-001

September 17, 2026

Newfoundland and Labrador Health Services

Summary: The Complainant made a correction request to Newfoundland and Labrador Health Services. NLHS refused to grant the request for correction, and the Complainant filed a complaint with this Office. The Complainant and Custodian agreed that a correction was not required but disagreed on the necessity and contents of an annotation. The original annotation was broad and included matters beyond the clinical record. Through informal resolution the annotation was narrowed to 388-words, focused on the information in the specific clinical record. The Commissioner recommended that the Custodian amend its information practice in this case and annotate the Complainant's record with the narrowed annotation provided by the Complainant.

Statutes Cited: *Personal Health Information Act,* SNL 2008, Chapter P-7.01, sections 62, 63, 66, 72, and 74.

BACKGROUND

[1] On September 27, 2025, the Complainant submitted a correction request under the Personal Health Information Act ("**PHIA**") to Newfoundland and Labrador Health Services ("**NLHS")** concerning a clinical encounter with a nurse practitioner on November 18, 2024. On October 28, 2025, NLHS provided written notification to the Complainant that it had refused the correction request.

[2] The Complainant was not satisfied with NLHS's refusal and filed a complaint with this Office. Through informal resolution both parties agreed that a correction was not required in this case as the record was the professional opinion of the nurse practitioner.

[3] NLHS first took the position that it could neither correct nor annotate the record. Through informal resolution, NLHS agreed to annotate the record. However, NLHS disagreed with the form and substance of the annotation as the original was too broad and extended beyond the clinical encounter at issue.

[4] Upon review, this Office found the Complainant's original submission was lengthy and included considerable information unrelated to the specific clinical encounter. In addition to addressing the disputed clinal information, the original annotation included broad concerns regarding the Complainant's interactions with NLHS and its staff.

[5] During the informal resolution process this Office continued to work with the Complainant to identify the specific information in dispute and to focus the proposed annotation to the clinical encounter at issue.

[6] The Complainant agreed to change their requested annotation and submitted a revised 388-word annotation. The revised annotation removed matters unrelated to the clinical encounter and focused on the information in that clinical record that was disputed by the Complainant. NLHS responded on March 13, 2026, that it did not accept this annotation and refused to annotate the record as requested.

[7] As informal resolution was unsuccessful, the complaint proceeded to formal investigation in accordance with section 44(4) of the Act.

PUBLIC BODY'S POSITION

[8] NLHS's position is that the health record in question should be annotated but does not agree it should be annotated with the notes that were originally provided by the Complainant. The original annotation provided by the Complainant was eight pages long and contained extraneous commentary. NLHS maintained its position on dictating the form and substance of the annotation even after being provided with the Complainant's amended annotation.

[9] It is the view of NLHS that the Complainant's report on these events is related to dissatisfaction with their experience at NLHS and NLHS cannot be expected to document these events in the Complainant's health record, even though they specifically requested it. NLHS added "we cannot correct the record, or annotate it in its current form, but the Patient's concerns are valid and known to NLHS' Patient Relations Office."

[10] NLHS is also of the view that, for appropriate annotations, brevity is preferred as it allows for the effective communication of relevant personal health information (PHI) within the health information system and the efficient exchange of PHI in support of clinical decision-making.

COMPLAINANT'S POSITION

[11] The Complainant submitted a request for correction to NLHS regarding a clinical encounter with a nurse practitioner. Upon reviewing the record and during the informal resolution process the Complainant agreed that a correction was not required. They then requested that the record be annotated. The Complainant worked with this Office to draft a reasonable and succinct amended annotation.

ISSUES

[12] The issue to be addressed in this investigation is whether the Custodian has responded appropriately to the request for annotation in accordance with the *Act*.

DECISION

[13] MyHealthNL is an app introduced by NLHS that allows patients to access their own personal health information from their own devices. As more people access their own health information, this has led to an increase in volume and complexity of complaints involving correction and annotation of health information.

[14] Given that the Complainant agreed that NLHS was entitled to exercise its discretion under section 62(1)(b)(ii) of the Act to refuse the correction request, the scope of this Report is limited to the issue of annotation. Part of the issue with the annotation requested by the Complainant was that it was lengthy and contained commentary on issues with NLHS which fell outside the scope of what is normally contained in a medical record.

[15] Section 63(2) stipulates what a custodian must do if it refuses to make the requested correction.

> 63(2) Where a custodian refuses to grant a request for correction under paragraph 62(1)(b), he or she shall
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> (a) annotate the personal health information with the correction that was requested and not made and, where practicable, notify a person to whom the information was disclosed within the 12 month period immediately preceding the request for correction of the notation unless the custodian reasonably expects that the notation will not have an impact on the ongoing provision of health care or other benefits to the individual or the individual requesting the correction has advised that notice is not necessary; and
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> (b) provide the individual requesting the correction with a written notice setting out the correction that the custodian has refused to make, the refusal together with reasons for the refusal, and the right of the individual to appeal the refusal to the Trial Division under Part VII or request a review of the refusal by the commissioner under Part VI.

[16] Under 66(3) of PHIA, where an individual believes on reasonable grounds that a custodian has contravened or is about to contravene a provision of this Act or the regulations in respect of his or her personal health information or the personal health information of another, he or she may file a complaint with the commissioner.

[17] The question then becomes whether NLHS contravened section 63(2)(a) of the Act by refusing to annotate "with the correction that was requested." Sections 62 and 63 of *PHIA* provide that a custodian of personal health information must, when presented with a request for correction, do one of two things. Either it may grant the request for correction (in which case the correct information must be placed in the record, without, however, wiping out the incorrect information) or (if it refuses to correct the information) it must annotate the record with the correction that was requested but not made.

[18] Rather than treating a request for correction or annotation as a kind of adversarial exercise, in which the custodian (or the Commissioner at the complaint stage) must determine, on the basis of evidence presented to it, which version of events is most likely to be true, the legislature has chosen to create a procedure that focuses instead on both the integrity and the transparency of the clinical record-keeping process.

[19] It focuses on integrity by ensuring that staff of custodians, including health professionals, may formulate and record their professional observations and diagnostic opinions made in good faith. It accomplishes this by permitting custodians to refuse to agree to requests for correction of such observational and opinion information. It simultaneously ensures transparency by mandating a process that requires that in either case, the record will always contain both the original content and the information about the requested correction. The only difference is that in the case of a correction, the custodian labels the original information as incorrect and clearly states what it considers the correct information to be. Conversely, where the custodian refuses to correct the record, the annotation must state what the requested correction is, that it has refused to make it, and why.

[20] NLHS is required by section 63 of *PHIA* to annotate the record with a note setting out the correction that the Complainant had requested. As part of this procedure, NLHS is then

required under section 63 of *PHIA* to notify other persons (such as the Complainant's family doctor) to whom the disputed information was disclosed in the 12 months immediately preceding the request, of the annotation.

[21] With respect to the requirement under paragraph 63(2)(b) that the individual be notified in writing of the refusal, reasons for refusal and their right of appeal, I believe NLHS discharged its obligation. Following receipt of the request for correction, NLHS contacted the Complainant to explain that it would not correct the record and explained its reason for that decision. The Complainant did not accept NLHS's explanation and continued to insist that the record be corrected or annotated.

[22] When refusing to correct, NLHS is required to make an annotation in the file that a correction was requested under 63(2) and refused, and it is required to state the reason for the refusal. Furthermore, the Act clearly states, "annotate the personal health information with the correction that was requested and not made". The Act does not speak to any limits to the content or form of the annotation, however the purpose of the annotation is to annotate the record and not to provide individuals with an opportunity to add anything they wish to their medical records. It is helpful to consider what an "annotation" is and what it is meant to do. An annotation is generally a short note or addition to a record, for the purpose of commenting on or explaining the original record.

[23] The annotation process is not a carte blanche invitation for patients to have their views recorded by a custodian in the patient record. The proposed annotation must be directly related to the information that was the subject of the correction request, and it must only address those aspects of the record that the individual believes are inaccurate or incomplete. The annotation process is not an opportunity to editorialize broadly about the custodian or staff or other patient care issues that are unrelated to the record that was the subject of the correction request. Custodians may therefore omit from the annotation any commentary that is clearly not related to the accuracy or completeness of the record that was the subject of the correction request. Additionally, when a large number of related corrections are requested but not made, it may be reasonable for the Custodian to make a general annotation acknowledging the correction request and specifying the types of corrections requested.

[24] Section 63(2) cannot be understood to require a Custodian to incorporate an individual's submission for annotation in its entirety where portions are unrelated to the personal health information at issue. In this case, the original annotation was considerably broader than what was included in the original records. However, the fact that the original annotation submission was overly broad does not relieve NLHS of its obligation under 63(2) to annotate the record.

[25] Our Office is satisfied that the revised 388-word annotation is sufficiently focused on the clinical encounter at issue, identifies the information disputed by the Complainant, and details the correction requested and not made. The 388-word annotation is sufficiently focused to meet the annotation requirement in section 63(2) and is a reasonable means for NLHS to satisfy that obligation.

[26] This investigation has exposed a deficiency in the recommendations section of the Act. Section 72(2)(b) authorizes the Commissioner to recommend the Custodian make the requested correction. The Act does not provide a corresponding authority to recommend that a Custodian make an annotation compliant with section 63(2). As the general legal principal says, where there is a right there is a remedy. This Office has interpreted section 72(2)(c)(iv) to be broad enough to allow for a recommendation that, in this case, NLHS implement an information practice of annotating the Complainant's medical record with the amended annotation, as it is reasonably necessary to achieve compliance with the Act.

[27] Engaging section 72(2)(c)(iv) is a solution to an omission in the Act, where an information practice is reasonably necessary to achieve compliance. The Act should give the Commissioner express authority to make recommendations concerning annotation requirements pursuant to 63(2).

RECOMMENDATIONS

[28] Under the authority of section 72(c)(iv) of the Personal Health Information Act, in this particular case, I recommend:

a) that NLHS implement an information practice, being annotating the Complainant's medical records with the amended 388 word annotation, and

b) where practicable, notify a person to whom the information was disclosed within the 12 month period immediately preceding the request for correction, where required by paragraph 63(2)(a) of PHIA.

[29] As set out in section 74 of the PHIA, the head of NLHS must give written notice of his or her decision with respect to these recommendations to the Commissioner and any person who was sent a copy of this Report (in this case the Applicant) within 15 days of receiving this Report.

[30] Dated at St. John's, in the Province of Newfoundland and Labrador, this 17th day of September 2026.

Kerry Hatfield
Information and Privacy Commissioner
Newfoundland and Labrador