



SAFEGUARD

A quarterly newsletter published by the Office of the Information and Privacy
Commissioner

Volume 9, Issue 2

May 2025

Contact Information

Office of the Information
and Privacy Commissioner

Mailing Address:
PO Box 13004, Station A
St. John's, NL A1B 3V8

Telephone:

709-729-6309

Toll Free in Newfoundland
and Labrador:

1-877-729-6309

Email:

commissioner@oipc.nl.ca

Website:

www.oipc.nl.ca

Follow us on social media!

LinkedIn:

[https://LinkedIn.com/
company/oipc-nl](https://LinkedIn.com/company/oipc-nl)

This Issue:

- Updates: Forms and Guidance
- Access Requests Involving Personal Health Information
- Snooping
- PHIA Privacy Breach Statistics February 1 – April 30, 2025

Updates: Forms and Guidance

OIPC has updated the privacy breach form and guidelines used by custodians, and issued two new guidance pieces this quarter.

OIPC updated the breach reporting form and created new guidelines on how to complete the form to assist custodians. All custodians should bookmark the new form to use when reporting a privacy breach under the **Personal Health Information Act (PHIA)**.

The updated forms and guidelines are available on our website at:

- [Reporting a Privacy Breach Form](#)
- [How to Complete the Reporting a Privacy Breach Form](#)

OIPC also created two new guidance resources to assist custodians.

Reasonable Safeguards

This new guidance is intended to assist custodians and public bodies understand their obligation to ensure reasonable safeguards are in place to protect the personal information and personal health information in their custody or under their control.

Use of Video Surveillance

This guidance is intended to assist custodians and public bodies decide whether collection of personal information by means of video surveillance is both necessary and justifiable and, if so, what privacy protection measures must be considered to ensure compliance with applicable legislation, including PHIA.

Custodians with questions or feedback on these new resources are welcomed to reach out to our Office by calling 709-729-6309 or emailing commissioner@oipc.nl.ca.

Access Requests Involving Personal Health Information

This article is part of a series that will examine custodians' obligations when in receipt of access or correction requests. This first article focuses on access requests, while our August edition of Safeguard will focus on correction requests.

Under section 52(1) of PHIA, an individual has a right to access a record containing their personal health information (PHI) that is in the custody or under the control of a custodian. This access can extend to a representative of the individual as per section 7.

Custodians should note that while PHIA establishes a formal framework for access requests, as per section 59, nothing in the Act prevents informal access. Where possible, custodians are encouraged to provide access informally, especially at the point of care. For example, if the individual is at an appointment where test results are being discussed and the individual requests a copy of the test results, the custodian should provide a copy at that time if possible.

A custodian can require a request for access to be in writing, unless the individual has limited ability to read or write English or has a disability or condition that impairs their ability to make the request in writing. The request needs to have enough detail to help the custodian identify and locate the record. If the request does not provide enough information, the custodian must offer to assist the individual in making the request.

A custodian may require an individual to provide the information confirming their identity, which can assist in locating the correct record, such as:

- name;
- birth date;
- MCP or other unique identifier(s);
- address; or
- sufficient information to allow for record retrieval with reasonable effort.

Timely Response

As per section 55, custodians must respond within 60 days of receiving a request to access PHI. The deadline may be extended by an additional 30 days where:

- meeting the deadline would unreasonably interfere with the operations of the custodian; or
- the information consists of numerous records or locating the information that is the subject of the request cannot be completed within the originally prescribed time limit.

If a custodian extends the original timeframe by an additional 30 days, the custodian must give the individual written notice of the extension, including the reasons for the extension. A custodian must respond to the individual's request as soon as possible and no later than the expiration of the extended time limit.

Possible Outcomes

Access Granted - Where the custodian grants access, the custodian must make the record available to the individual for review and, upon request, provide a copy of the record to the individual and an explanation, where necessary, of any information contained in the record. While custodians are allowed to charge a fee, the fee can be waived by the custodian and cannot exceed the limit established by the Minister.

The Minister has not established a fee schedule under section 57 of PHIA, however OIPC discussed the matter of fees in [Report AH2012-001](#). Paragraphs 20 and 21 establish a reasonable standard total fee of \$25, identifying a number of tasks that would be included under that fee. It continues to note that, after the first 50 pages, a fee of \$0.25 per page for photocopies may be charged. Paragraph 21 also notes that, "Fees for requests that require the use of specialized equipment or resources can be assessed outside of these recommendations if circumstances warrant."

Record does not Exist - The custodian must give written notice to the individual stating that, after reasonable efforts, it has been concluded that the record does not exist or cannot be found.

Access Refused - Section 58 of PHIA discusses why a custodian would refuse access to personal health information. Where the custodian refuses access to the record, in whole or in part, the custodian must provide written notice to the individual stating that access to the record, in whole or in part, is refused, along with reasons for the refusal, and that the individual may appeal the refusal to the Court under Part VII of PHIA or request a review by the Commissioner as per Part VI of PHIA.

Failure to Respond - Should a custodian fail to respond to an access to personal health information request within the legislated timeframe, they will be considered to have refused the request for access and the individual requesting access may appeal that refusal to the Court or request a review by the Commissioner.

PHI Access Requests - Key Takeaways

- Custodians should have policies and procedures on the processing of access requests.
- Reasonable fees may be charged for copies of personal health information.
- Informal disclosures, such as providing a copy of test results during an appointment, is encouraged whenever possible.

Snooping

This is the first in a series of articles about snooping, with future articles focusing on containing and detecting snooping incidents, investigating potential snooping incidents and even naming the snooper.

Privacy legislation, including the **Access to Information and Protection of Privacy Act, 2015** and PHIA, require that public bodies and custodians protect the information in its custody or control, which includes ensuring safeguards are in place to protect information from insider threats.

Snooping is an insider threat; it is the unauthorized collection, use or disclosure of personal information or personal health information. It is when someone uses authorized access for unauthorized purposes, for example, looking up information out of curiosity or for non-work purposes.

Custodians are reminded that section 15(3) of PHIA requires them to notify impacted individuals of breaches and section 15(4) requires that material breaches be reported to OIPC. Abusing authorized access for unauthorized purposes is considered a breach. Snooping may also be considered a material breach reportable to OIPC, depending on the sensitivity of the personal health information involved; the number of people whose personal health information was involved; whether the custodian reasonably believes that the personal health information involved has been or will be misused; and whether the cause of the breach or the pattern of breaches indicates a systemic problem.

The impact of snooping on affected individuals can be major. Members of the public provide health professionals and other custodians with their personal health information, with the commitment that the information will be kept secure. Finding out that someone has inappropriately accessed this information is unsettling, frustrating, and scary. Impacted individuals are left wondering why this happened, as well as how. They may lose trust in the entity and they may stop being as open. Taking steps to protect oneself against fraud and identity theft take time and patience.

The UK Information Commissioner's Office has developed a campaign called The Ripple Effect that outlines some of the unintended consequences of privacy breaches, including snooping (see ico.org.uk/ripple). The impacts included:

- having to remove children from a particular school
- having to move
- having to leave a job
- losing trust, leading to fear in seeking medical care

Watch future editions of Safeguards for more articles on snooping!

PHIA Privacy Breach Statistics February 1 – April 30, 2025

Between February 1 – April 30, 2025, OIPC received five privacy breach notifications, which is an increase over last quarter's three breaches. The five breach reports came from four custodians. Four of the five breaches involved individuals receiving information of another, with the error attributed to a number of root causes. Custodians are reminded of the importance of verifying the identity of the individual seeking the information, as well as ensuring that any correspondence or paper copies being provided contain the correct individual's information. The investigation into the fifth breach is continuing and will be detailed in future newsletters once complete.

Want Training?

We would like to remind custodians that OIPC offers PHIA training that can be customized to their needs!

We are also available to speak at annual general meetings and other events!



Interested custodians should email OIPC at commissioner@oipc.nl.ca.

There are also a number of PHIA resources available on OIPC's [website](#).