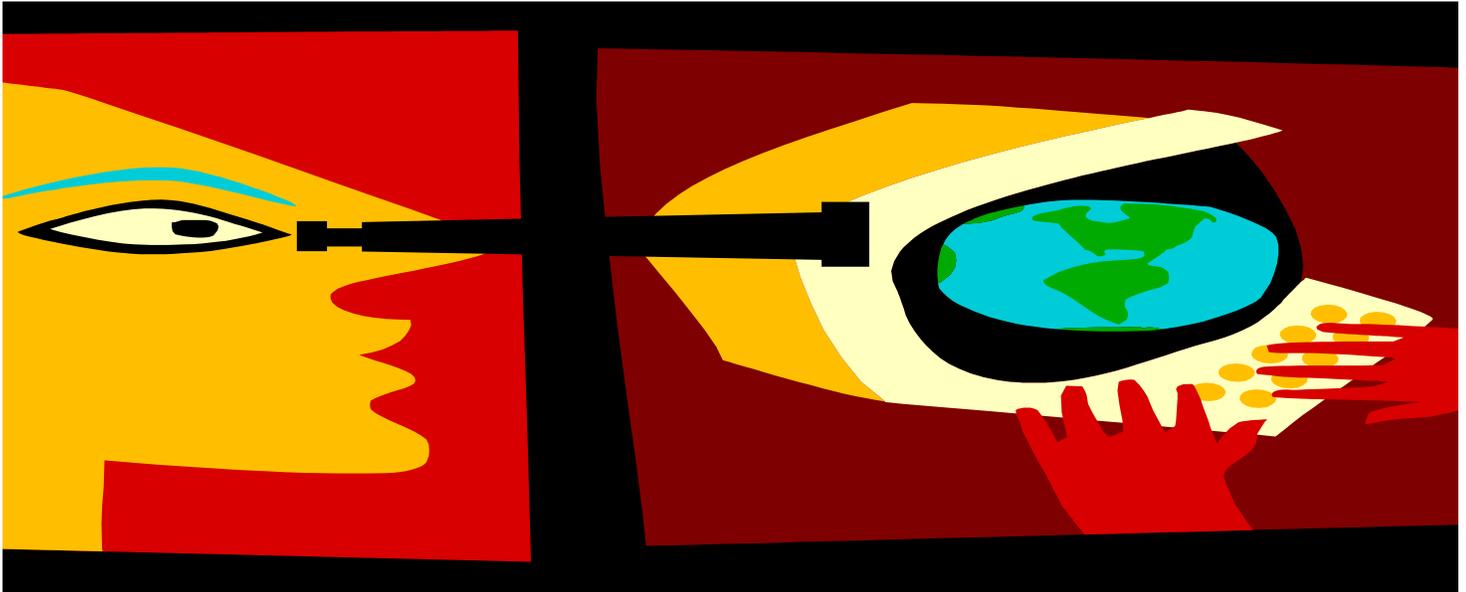


FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT (FIPPA)



January 1, 2012 heralds a new era of transparency for Ontario hospitals as they become institutions under the *Freedom of Information and Protection of Privacy Act (FIPPA)*.

However, since 2004, hospitals have also been defined as health information custodians under the *Personal Health Information Protection Act (PHIPA)*, which governs the collection, use and disclosure of personal health information by the health sector.

The purpose of FIPPA is two-fold:

1. to provide a right of access to information under the control of institutions (**freedom of information (FOI)**); and
2. to protect the privacy of individuals with respect to personal information about themselves in the custody or the control of institutions (**protection of privacy**).

Accordingly, there are four pillars that underpin the spirit of the legislation:

1. to provide a right of access to information under the control of institutions in accordance with the principles that;
2. information should be available to the public;
3. necessary exemptions from the right of access should be limited and specific; and
4. decisions on the disclosure of government information should be reviewed independently of government by the Information and Privacy Commissioner (IPC)

Protection of Privacy

Personal information is different from personal health information. For the purposes of FIPPA, personal information *does not include* personal health information under the Personal Health Information Protection Act (PHIPA). Generally, personal information is a broad category of information, of which personal *health* information is one type.

The term **personal information** has three key elements, *all* of which must be present for FIPPA to apply:

1. the information must be **recorded**;
2. the information must be about an **individual**; and
3. the individual who is the subject of the information must be **identifiable**.

If a hospital record contains both personal health information and non-personal, administrative information, the latter remains subject to FIPPA (and FOI requests) if the former can be reasonably severed from the record. Many of the privacy obligations in FIPPA are very similar to the personal health information obligations in PHIPA.

Personal information does **not** include an individual's business contact information. Their professional title, phone, email, address and fax number at their place of employment can all be made publicly available.

Freedom of Information

FIPPA establishes a right for every person to access information held by hospitals, and provides a formal process for people to exercise that right by making an FOI request. An FOI request is a written request for a record in the *custody* or *control* of a hospital (provided that the record was in the custody or control of the hospital on or after January 1, 2007).

You do not always need to submit a formal FOI request to access information from the Hospital. Information is posted on our website. In the coming months expect to see our site grow as we continue to add information of interest to the public. Our site will contain readily available records including Board minutes of meetings, hospital statistics, plans, reports and other documents.

If you cannot find the information that you seek online, consider requesting the information informally. This means requesting information from administration and/or our Privacy Officer. You will be assisted with your request and told whether the information can be provided to you informally, or whether you will have to submit a freedom of information request.

Our 'Directory of Records' (*link below*) provides a general overview of the information/records held by our hospital.

Current staff of the hospital can continue to access their personnel file from the Human Resources Coordinator (*policy link below*)

Exclusions and Exemptions

FIPPA sets out both *exemptions* and *exclusions* for the release of information to a requester. They are designed to allow institutions the freedom to protect their respective interests in specific circumstances. (*Refer to the link below for access to further details*)

Definition of a Record

Any record of information however recorded, whether in printed form, on film, by electronic means or otherwise, and includes:

- i. correspondence, a memorandum, a book, a plan, a map, a drawing, a diagram, a pictorial or graphic work, a photograph, a film, a microfilm, a sound recording, a videotape, a machine-readable record, any other documentary material regardless of physical form or characteristics, and any copy thereof; and
- ii. subject to the regulations, any record that is capable of being produced from a machine-readable record under the control of an institution by means of computer hardware and software or any other information storage equipment and technical expertise normally used by the institution.

The definition of record is very broad and includes virtually every form of information held in some recorded form by an institution. The definition is not restricted to actual physical documents, but includes records that can be created from existing data in a computer bank.

Email is not a record type or series, but it is a means of conveying information. As such, its retention is based upon the content of the email message, not the fact that it is an email message. If an email message meets the criteria of a record, it must be managed as such with as much effort and vigilance as one would a “traditional” record. For further details regarding emails refer to *(future link below)*

Information and Record Management in our hospital as it pertains to retention and our Directory of Records, is detailed in our hospital policy *(link below)*

For further questions not available on the following sites please contact **our Privacy Officer – Lynda G. Morin**

Links Hospital Policies

- Information/Records Management (ADM-GEN-LEG-24)
- Disposal of Personal Information (ADM-GEN-LEG-15)
- Personnel File Access (HUM-PER-GEN-12)
- Job description of Privacy Officer (PHIPA & FIPPA) (HUM-JOB-PER-28)

Other:

- [FIPPA EXCLUSIONS AND EXEMPTIONS – Tip sheet](#)
- Tips on email usage (future)

Websites

- Hospital Notre Dame Hospital (Hearst) – www.ndh.on.ca
- Information and Privacy Commissioner (IPC) – www.ipc.on.ca