



COLLEGE OF
LICENSED PRACTICAL NURSES
OF ALBERTA



Interpretive Document

Privacy Legislation in Alberta

Revised: January 8, 2020



This document is linked to legislation:

[Health Information Act](#)
[Health Information Regulation](#)
[Personal Information Protection Act](#)
[Freedom of Information and Protection of Privacy Act](#)

This document is linked to other documents that direct expectations of professional behaviour or requirements for practice:

[Standards of Practice](#)
[Code of Ethics](#)
[Professional Responsibility and Accountability](#)

This document is linked to related supportive documents:

[Confidentiality](#)
[Duty to Report](#)
[Independent Practice \(Self-Employed Practice\)](#)

REVISIONS and UPDATES

Editorial Update January 2020

Interpretive Document: *The legislative mandate of the College of Licensed Practical Nurses of Alberta (CLPNA) is to serve and protect the public by ensuring its members deliver safe, competent and ethical nursing care. An Interpretive Document provides an explanation of legislation that affects practical nursing and how to practice in compliance with the law. These explanatory documents are meant to clarify an LPN's understanding of obligations and issues arising from various pieces of legislation.*

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Approver	Executive



INTRODUCTION Licensed Practical Nurses (LPNs) have an ethical and legal responsibility to protect the privacy and confidentiality of information that is obtained in the course of providing professional services. In accordance with the *Standards of Practice for Licensed Practical Nurses in Canada*, LPNs must practice within the relevant laws governing privacy and confidentiality of personal health information and advocate for the protection of clients' privacy, confidentiality and access to information.¹

Generally speaking, personal information (including health information) should only be collected, used and disclosed for legitimate purposes with the individual's knowledge (and often their consent). Personal information must always be stored, shared, and disposed of in a way that keeps it secure and confidential.

PURPOSE The purpose of this document is to provide an overview of the various pieces of privacy legislation that could be applicable to an LPN and identify how to determine which one would be applicable depending on the context. This document is particularly important for LPNs in independent practice since they are responsible for the development of policies that safeguard personal information about their clients and employees in accordance with legislation and professional standards.

INTERPRETATION Alberta has three pieces of legislation that deal with privacy and access to information: the *Health Information Act*, the *Personal Information Protection Act*, and the *Freedom of Information and Protection of Privacy Act*. The rules and framework governing the collection, use, and disclosure of information collected can vary depending on which piece of legislation applies.

There are also two pieces of federal privacy legislation, the *Privacy Act* and the *Personal Information Protection and Electronic Documents Act* (PIPEDA). The *Privacy Act* applies to federal government agencies and PIPEDA applies to federally regulated businesses that may have offices in Alberta.

For the most part, neither of these federal Acts will apply to LPN practice.

In order to determine which Act applies, the following considerations should be assessed:

- the nature of the organization (i.e. is it a custodian as defined by the *Health Information Act* and if not, is it a private sector organization or a public body?), and
- the type of information collected by the organization (i.e. is it health information, personal information or personal employee information?).

Health Information Act

The *Health Information Act* (HIA) governs the collection, use and disclosure of health information. It sets out rules that aim to balance the needs of individuals (to be assured that their health information is safeguarded) with the needs of health care providers and organizations (to have access to health information).² The HIA also gives individuals a right to access their own health information and a right to request a correction to their health information.³

Health information is defined in the HIA and can include diagnostic, treatment, and care information as well as registration information.⁴ The HIA only applies to information collected for the purpose of providing health services. Section 3.1 of the *Health Information Regulation* outlines several services that are considered exceptions to the definition of a 'health service.'

When does the HIA apply?

The HIA applies to organizations, groups, or people designated as custodians of health information under the Act and its regulations. The list of custodians includes the regional health authority (Alberta Health Services), provincial health boards, nursing home operators, licensed pharmacies as well as certain health services providers. A complete list of health professions that are custodians can be found in



section 2(2) of the HIA Regulation. The HIA also applies to affiliates of custodians.

The HIA applies to custodians who provide health services.⁵ LPNs are not one of the health services providers designated as custodians; however, an LPN would be classified as an affiliate if they:⁶

- are employed by a custodian,
- perform a service for a custodian as an appointee, volunteer, or student,
- perform a service for a custodian under a contract or agency relationship with the custodian, or
- are an information manager who processes, stores, retrieves, or disposes of health data.

LPNs employed or contracted by custodians under the HIA will be considered affiliates and subject to the rules set out in the HIA. Ultimately, custodians are responsible for ensuring that their affiliates are aware of and follow the rules for the collection, use, and disclosure of health information under the HIA.

Does the HIA apply to me?

The HIA will apply to most LPNs working in hospitals, nursing homes or physician clinics.

Alberta Health Services and Covenant Health are custodians under the HIA so an LPN working for either organization would be considered an affiliate.

Regulated members of a number of health professions such as the College of Physicians and Surgeons of Alberta are designated as custodians so an LPN working in a physician's clinic would be considered an affiliate.

NOTE: An LPN in independent practice but has a contract with AHS (or another custodian) to provide health services would be considered an affiliate under the HIA.

Personal Information Protection Act

The *Personal Information Protection Act* (PIPA) sets the rules for the collection, use, and disclosure of personal information and personal employee

information by private sector organizations in Alberta.

Personal information means information about an identifiable individual.⁷ This means it is information that on its own, or when combined with other pieces of data, can identify an individual.

Personal employee information is information reasonably required by the organization for the purposes of establishing, managing, or terminating an employment or volunteer work relationship between the organization and the individual but does not include personal information about the individual that is unrelated to that relationship.⁸

When does PIPA apply?

PIPA applies to provincial private sector organizations, businesses, partnerships, professional regulatory bodies and individuals acting in a commercial capacity.⁹ Organizations subject to PIPA are required to develop and follow policies that are reasonable to meet their obligations under the Act.¹⁰

Does PIPA apply to me?

PIPA could apply to an LPN in independent practice. If PIPA applies, then the LPN is responsible for the development of policies to ensure they meet their obligations under PIPA.

However, if the LPN in independent practice has a contract with AHS (or another custodian) to provide health services then the LPN would be considered an affiliate under the HIA.

Freedom of Information and Protection of Privacy Act

The *Freedom of Information and Protection of Privacy Act* (FOIP) sets the rules for the way a public body may collect, use, or disclose personal information. FOIP allows for a general right of access to records that are in the custody or control of a public body (subject to specific exceptions) and gives individuals the right to request corrections to information about themselves that is held by a public body. It aims to find a balance



between the public's right to know and the individual's right to privacy in relation to information held by public bodies in Alberta.

When does FOIP apply?

FOIP applies to public bodies such as government ministries, school boards, universities, municipalities, and police. FOIP gives public bodies a framework for how to conduct the collection, use, and disclosure of personal information. FOIP does not apply to health information that is in the custody or under the control of a public body that is a custodian under the HIA. An individual who wishes to access their own personal health information must use the procedures outlined in the HIA. However, FOIP would apply to other personal information about an individual that is not health information.

Does FOIP apply to me?

Under FOIP, anyone who performs a service for the public body is considered an employee. This means LPNs contracted by the WCB or some other public body that is not a custodian under the HIA would be considered an employee and obligated to comply with FOIP.

NOTE: FOIP does not apply to health information but it would apply to other personal information.

CONCLUSION

"Respect for privacy is the acknowledgement of respect for human dignity and of the individuality of

man."¹¹ Individuals and patients want to know their personal information (especially their medical information) is safeguarded and only disclosed appropriately.

Personal information collected, used, and disclosed in the course of providing professional services can be subject to specific legal requirements in addition to professional ethical obligations around confidentiality. It is important for LPNs to be aware of, and follow, these legal and professional requirements in their practice. LPNs are ultimately responsible for determining and understanding which legislation applies to their practice and to ensure compliance.

If after reading this document you have questions about privacy legislation in your practice, please contact the Practice Team at the CLPNA via practice@clpna.com, 780-484-8886 or 1-800-661-5877 (toll free in Alberta).

Please be aware that this document is not a substitute for legal advice in any specific situation.



REFERENCES

- ¹ Canadian Council for Practical Nurse Regulators (CCPNR), *Standards of Practice for Licensed Practical Nurses in Canada*, 2013, 6-7. https://www.clpna.com/wp-content/uploads/2013/02/doc_CCPNR_CLPNA_Standards_of_Practice.pdf.
- ² *Health Information Act*, s 2 (a)-(b).
- ³ *Health Information Act*, RSA 2000, c H-5, s 2(d)-(e).
- ⁴ *Health Information Act*, s 1(1)(k).
- ⁵ OIPC, *Practical Guide to HIA*, Aug 2010, at 7.
- ⁶ *Health Information Act*, s 1(a).
- ⁷ *Personal Information Protection Act*, SA 2003, c P-6.5, s 1(1)(k).
- ⁸ *Personal Information Protection Act*, s (1)(1)(j).
- ⁹ PIPA s 4.
- ¹⁰ PIPA, s 6(1).
- ¹¹ Office of the Privacy Commissioner of Canada, 1984 Annual Report.