



COLLEGE OF
LICENSED PRACTICAL NURSES
OF ALBERTA



Interpretive Document

Privacy Legislation in Alberta

Approved: December 29, 2022



This document is linked to legislation:

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

[Health Information Act](#)

[Health Information Regulation](#)

[Personal Information Protection Act](#)

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

[Code of Ethics for Licensed Practical Nurses in Canada](#)

[Professional Responsibility and Accountability](#)

[Standards of Practice for Licensed Practical Nurses in Canada](#)

This document is linked to related supportive documents:

[Confidentiality](#)

[Duty to Report](#)

[Self-Employed Practice](#)

The legislative mandate of the College of Licensed Practical Nurses of Alberta (CLPNA) is to serve and protect the public by ensuring its registrants 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.

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Approver Executive

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INTRODUCTION The College of Licensed Practical Nurses of Alberta (CLPNA) has the authority under the *Health Professions Act* (HPA) to carry out its activities and govern registrants* in a manner that protects and serves the public interest.

Licensed Practical Nurses (LPNs) have an ethical and legal responsibility to protect the privacy and confidentiality of information that is obtained while providing professional services. Privacy applies to an individual person and their right to not share information about themselves with others and to make decisions about how their personal information is shared. Personal information should only be collected, used, and disclosed for legitimate purposes with the individual's knowledge and consent. Personal information must always be stored, shared, and disposed of in a way that keeps it secure and confidential.

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 patients' privacy, confidentiality, and access to information.¹ This document will focus on privacy legislation applicable in Alberta.

This document is not a substitute for legal advice.

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. This document also identifies how to determine which one would be applicable depending on the context. This document is particularly important for LPNs in self-employed practice since they are responsible for the development of policies that safeguard personal information about their patients 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 or transactions involving personal information transferred outside of Alberta.²

LPNs are responsible for knowing what privacy legislation applies to their workplace. LPNs may have to follow different privacy legislation depending on their employer or if they are self-employed.

To determine which privacy legislation applies, the following considerations should be assessed:

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

Three major provincial privacy laws in Alberta are described in more detail below.

* In this document, "registrant" has the same meaning as "regulated member" in the *Health Professions Act*.



Health Information Act

The *Health Information Act* (HIA) governs the collection, use, and disclosure of health information. The HIA sets out rules that aim to balance the needs of individuals with the needs of health care providers and organizations. Health information is safeguarded while allowing healthcare providers access to necessary health information.³ The HIA also gives individuals a right to access their own health information and a right to request a correction to their health information.⁴

Health information is defined in the HIA and can include diagnostic, treatment, and care information as well as registration information.⁵ 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 section 1(1)(a) of the HIA and its regulations. The list of custodians includes but is not limited to Alberta Health Services, Covenant Health, provincial health boards, nursing home operators, licensed pharmacies, and 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.⁶ LPNs are not one of the health services providers designated as custodians; however, an LPN would be classified as an affiliate if they:⁷

- 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 will be considered affiliates under section 1(1)(a) of the HIA and subject to the rules set out in the regulation. 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 (AHS) 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 registrants of 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.

Please note, an LPN in self-employed practice who 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 as defined in section 1(1)(k) of the PIPA means information about an identifiable individual.⁸ This means it is information that on its own, or when combined with other pieces of data, can identify an individual.

Personal employee information, as defined in section 1(1)(j) in PIPA, 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. Personal employee information does not include personal information about the individual that is unrelated to that relationship.⁹

When does PIPA apply?

PIPA applies to provincial private sector organizations, businesses, partnerships, professional regulatory bodies, and individuals acting in a commercial capacity.¹⁰ Organizations subject to PIPA are required to develop and follow policies that are reasonable to meet their obligations under PIPA.¹¹

Does PIPA apply to me?

PIPA could apply to an LPN in self-employed 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 self-employed 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.¹² 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.¹³ 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.¹⁴ 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.¹⁵ 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.¹⁶ This means LPNs contracted by the Workers Compensation Board or some other public body that is not a custodian under the HIA would be considered an employee and obligated to comply with FOIP.

Please note, FOIP does not apply to health information, but it would apply to other personal information.¹⁷

CONCLUSION Personal information collected, used, and disclosed while providing professional services can be subject to specific legal requirements in addition to professional ethical obligations around confidentiality. The HIA governs the collection, use, and disclosure of health information, PIPA governs the collection, use, and disclosure of personal information by private sector organizations, and FOIP sets the rules for the way a public body may collect, use, or disclose personal information.

LPNs must 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 you have any questions, please contact the Professional Practice Team at [Ask CLPNA](#), or by phone at 780-484-8886 or 1-800-661-5877 (toll free in Alberta).



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 *Privacy Act*, R.S.C., 1985, c. P-21, s 2; *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, s 4(1).
- ³ *Health Information Act*, RSA 2000, c H-5, s 2 (a)-(b).
- ⁴ *Health Information Act*, s 2(d)-(e).
- ⁵ *Health Information Act*, s 1(1)(k).
- ⁶ *Health Information Act*, s 6.
- ⁷ *Health Information Act*, s 1(a).
- ⁸ *Personal Information Protection Act*, SA 2003, c P-6.5, s 1(1)(k).
- ⁹ *Personal Information Protection Act*, s (1)(1)(j).
- ¹⁰ *Personal Information Protection Act*, s 4.
- ¹¹ *Personal Information Protection Act*, s 6(1).
- ¹² *Freedom of Information and Protection of Privacy Act*, RSA 200, c F-25, s 2 (a)-(e).
- ¹³ *Freedom of Information and Protection of Privacy Act*, s 2 (a)-(e).
- ¹⁴ *Freedom of Information and Protection of Privacy Act*, s 4(1) (a)-(u).
- ¹⁵ *Freedom of Information and Protection of Privacy Act*, s 4(1)(u).
- ¹⁶ *Freedom of Information and Protection of Privacy Act*, s 1 (e).
- ¹⁷ *Freedom of Information and Protection of Privacy Act*, s 4(1)(u).