

MANITOBA OMBUDSMAN PRACTICE NOTE

Practice Notes are prepared by Manitoba Ombudsman to assist persons using the legislation. They are intended as advice only and are not a substitute for the legislation.

Manitoba Ombudsman
750 – 500 Portage Avenue
Winnipeg, Manitoba R3C 3X1
Phone: (204) 982-9130 Toll free 1-800-665-0531
Fax: (204) 942-7803
Web site: www.ombudsman.mb.ca

PRIVACY CONSIDERATIONS FOR EMAILING PERSONAL AND PERSONAL HEALTH INFORMATION

The Freedom of Information and Protection of Privacy Act (FIPPA) and The Personal Health Information Act (PHIA) set out rules to protect individuals against the unauthorized use and disclosure of recorded personal and personal health information. Public sector bodies and trustees are required to make reasonable security arrangements and implement safeguards to ensure confidentiality and protect personal and personal health information (section 41 of FIPPA; section 18 and 19 of PHIA as well as section 2 and 3 of PHIA regulation). These rules apply when personal and personal health information is shared by email, or other networked systems such as the Internet.

An intercepted or misdirected email containing sensitive information such as an individual's health status, diagnosis or care needs, financial situation or employment information constitutes a breach of privacy under FIPPA or PHIA. A breach of privacy cannot be undone and can have significant consequences for the individual as well as the public sector body or trustee. The individual may be exposed to harms including damage to reputation, loss of business or employment opportunities, physical harm, fraud and identity theft. A privacy breach can also harm the public sector body or trustee. These harms may include damage to reputation, loss of public trust, as well as financial and other resource costs incurred when dealing with the breach and notifying the affected parties.

Public sector bodies and trustees should not email personal or personal health information unless it is absolutely necessary.

POTENTIAL RISKS ASSOCIATED WITH EMAILING

- Sending the document to the wrong email address.
- Document is emailed to the correct email address but viewed by an unintended recipient. This usually occurs when the email address is a general address or is the same email address for two or more people.
- The emailed document is forwarded to other individuals who do not need to know the information.
- The email address of the intended recipient has changed or the intended recipient is no longer employed with the public sector body/trustee.

TIPS TO CONSIDER WHEN EMAILING PERSONAL AND PERSONAL HEALTH INFORMATION

- Determine if there is an immediate time requirement that necessitates the need to send the information by email.
- Wherever practical, remove all personal identifiers and confidential information before emailing the information.
- Include the sender's name and contact information.
- Include a confidentiality clause specifying the material is confidential and intended only for the recipient. The confidentiality clause should request that the sender be notified immediately if the email was received by someone in error.
- Confirm the email address of intended recipient prior to sending the email.
- Contact the recipient to advise the email will be sent or to confirm receipt of a sent email.
- Consider the use of unique identifiers or codes to protect the identity of the individual.
- Do not use email distribution lists to email personal or personal health information.
- Disable the automatic name completion function to reduce the risk that email is sent to wrong person.
- All email boxes should be password protected and should be locked or logged off when not in use.
- Emails containing personal and personal health information should be encrypted.

Public sector bodies and trustees should have a workplace policy on emailing personal and personal health information that specifies the type of information that can be emailed and sets out steps to mitigate the risk of emailing personal and personal health information to an unintended recipient. It is important that all employees are trained and made aware of this policy.