

# MANITOBA OMBUDSMAN PRACTICE NOTE

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## RESPONDING TO A COMPLAINT ABOUT USE OF PERSONAL HEALTH INFORMATION UNDER *THE PERSONAL HEALTH INFORMATION ACT (PHIA)*

Under PHIA (subsection 39(2)), an individual has a right to make a privacy complaint to the Ombudsman alleging that a trustee has used his or her personal health information contrary to PHIA. This Practice Note has been prepared to assist trustees in responding to this type of complaint.

When Manitoba Ombudsman investigates a complaint concerning use, information would be requested from the trustee about the individual's allegation. There is certain information that would be relevant to any complaint about a use, which is outlined below. There could be other information relevant to a particular complaint that may also be requested from a trustee.

Each provision that authorizes the use of personal health information has certain requirements that must be met. It is important that a trustee addresses each component of these requirements.

If representations are too general or if the necessary connections between the use, the authorizing provision and the personal health information are not clearly made, the representations will not establish that the provision applies.

For a complaint about use, a trustee would be asked by our office to:

1. confirm whether personal health information was used
2. provide a copy of the personal health information that was used
3. indicate by whom the information was used
4. indicate when the information was used (the date or time frame)
5. describe how the information was used
6. indicate the provision under section 21 which authorizes the use
7. explain the reason or purpose for the use and describe how this relates to the authorizing provision
8. explain how the use was limited to the minimum amount of information necessary to accomplish the purpose for which it was used (subsection 20(2))