

MANITOBA OMBUDSMAN PRACTICE NOTE

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RESPONDING TO A COMPLAINT ABOUT DISCLOSURE 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 disclosed 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 disclosure, 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 disclosure, 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 disclosure 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 disclosure, 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 disclosure, a trustee would be asked by our office to:

1. confirm whether personal health information was disclosed
2. provide a copy of the relevant personal health information
3. indicate by whom the information was disclosed
4. indicate to whom the information was disclosed
5. indicate when the information was disclosed (the date or time frame)
6. describe how the information was disclosed (the means or method, such as by the trustee verbally disclosing the personal health information from the record or disclosing it in a letter)
7. indicate the provision under subsection 22(1) or 22(2) which authorizes the disclosure

8. explain the reason or purpose for the disclosure and describe how this relates to the authorizing provision
9. explain how the disclosure was limited to the minimum amount of information necessary to accomplish the purpose for which it was disclosed (subsections 20(2) and 22(3))