

Manitoba Ombudsman Practice Note

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HANDLING REQUESTS FOR CORRECTION UNDER THE PERSONAL HEALTH INFORMATION ACT (PHIA)

The purpose of this practice note is to assist trustees in responding to and handling requests for corrections to personal health information under PHIA.

Overview

One of the purposes of PHIA is to provide individuals with a right to examine or receive a copy of their personal health information. Individuals have the right to request corrections to records maintained by the trustee containing personal health information they believe is inaccurate. Trustees must take reasonable steps to ensure the accuracy of personal health information.

Using PHIA should not always be required to request a correction of inaccurate or out-of-date information. Changing an address or phone number is considered to be a routine correction and a trustee should not require a formal request under PHIA to do so.

Correction Requests Under PHIA

Section 12 of PHIA provides a right to request a correction of personal health information in records where the individual believes the information is inaccurate or incomplete.

Formal requests to correct personal information may be required when the individual and the trustee disagree about the accuracy of personal information in the record.

Requests for correction must be made by the individual to the trustee in writing. A trustee cannot charge an individual a fee in connection with a request for a correction.



Responding to Requests for Correction

Once the request for correction to personal health information has been received, the trustee has 30 calendar days to:

- Make the correction, by striking out the existing information and adding the correct information; or by cross referencing in a way that would alert anyone reading the record to the change (**trustees should not erase or delete the mistaken information**), or
- Inform the individual if the personal health information no longer exists or cannot be found, or
- Inform the individual of the name and address of the trustee who maintains the information (if the original trustee does not maintain the information).

It is the trustee who ultimately decides whether a correction is needed. The best practice is for the trustee to personally verify that the personal health information is inaccurate or incomplete prior to the record being corrected. A trustee may need the individual to provide documentation to prove the error. If the inaccuracy of the personal health information is not supported by proof, or the information is not fact based (such as a difference of opinion), a trustee is not required to correct the health record, but must still provide the individual the opportunity to add a statement of disagreement to the record.

When a correction is made it should be made to paper and electronic records.

Refusal to Correct Personal Health Information

If a trustee disagrees that there is a need for a correction to personal health information the trustee must:

- Inform the individual **in writing** that the correction will not be made, provide the reason for the refusal to correct the record, and advise of the right to add a statement of disagreement to the record (clause 12(3)(d)).
- Advise the individual whose request for correction has been refused of the right to make a complaint about the trustee's response under Part 5 to the ombudsman (subsection 12(3.1)).

The individual may add a statement of disagreement to the record to reflect his or her view that the information is inaccurate. The statement of disagreement must form part of the record in question or be cross referenced to it (clause 12(4)(b)). A trustee can consider accepting the correction request in lieu of a statement of disagreement, if the individual asks for this or does not wish to prepare a statement of disagreement.

Notifying Others of the Correction/Addition of a Statement of Disagreement

The trustee must, where practical, notify any other trustee or person to whom the personal health information had been disclosed of the correction to the record or the addition of a statement of disagreement.

In determining whether notification is practical, the trustee should consider all relevant factors, including the potential effect on the individual if the notification is not provided to other parties.

Notification to others should occur when:

- The trustee has disclosed the incorrect information to other trustees or persons.
- The disclosure has occurred **within the year** before the correction request was made.
- The trustee determines that notification should be made despite the disclosure occurring more than one year ago.

Trustees should keep a record of all disclosures of personal health information to other trustees or persons as this will simplify notification of other parties when a correction has been made or a statement of disagreement has been added.

The trustee that has received a notification must make the correction or add the statement of disagreement to any record of that personal health information maintained by the trustee (subsection 12(5)).

Revised January 2022