

## **Manitoba Commentary for the Provision of Emergency Contraception (Plan B) February 2, 2006**

### **Introduction**

The Manitoba Pharmaceutical Association and the Ombudsman have met and agreed to provide a commentary on the practice of pharmacists collecting an individual's personal health information when seeking levonorgestrel emergency contraception (Plan B).

Manitoba's *Personal Health Information Act* (PHIA) outlines how "personal health information" can be collected. This includes recorded information about an identifiable individual that relates to his or her health, health care history, the provision of health care or the payment for health care provided to the individual. Any identifying information that is collected about the individual in the course of and incidental to the provision of, or payment for, health care (i.e. name, address, PHIN) is also personal health information.

As health professionals, pharmacists are "trustees" of personal health information under PHIA, and are therefore subject to the requirements of the Act. The Ombudsman is the oversight authority under PHIA and may comment on the implications on privacy of programs or practices of trustees.

### **Levonorgestrel: Emergency Contraception (Plan B)**

In April 2005, levonorgestrel was removed as a prescription drug and granted Schedule 2 status. Schedule 2 requires a professional consultation between the pharmacist and the individual as a condition of sale, and that the product be kept in an area of the pharmacy where there is no public access. Schedule 2 does not require that a pharmacist record individuals' personal health information.

At that time, the Manitoba Pharmaceutical Association (MPhA) distributed a practice guideline to all Manitoba pharmacists titled, "Emergency Contraception (EC) Care." The MPhA also referred Manitoba pharmacists to the Canadian Pharmacists Association's program on Plan B, as a resource "that can be invaluable in establishing a pharmacy EC program." The voluntary program of the Canadian Pharmacists Association includes a document titled, "Screening Form for Emergency Contraceptive Pills (ECPs)" on which detailed personal health information can be recorded. The CPhA program documents are voluntary in Manitoba, not mandatory, and the individual pharmacist makes the decision about what questions need to be asked and what information, if any, needs to be recorded.

### **Commentary**

Identifiable personal health information must not be recorded by a trustee unless it is necessary and then only the minimum amount of personal health information that is required. Once health information is documented about an individual, it becomes personal health information under PHIA. Documentation of an individual receiving emergency contraception is only necessary when the individual wishes to have a third party pay for the medication, or when the individual wants the information recorded on her patient profile. Therefore, identifying information should be recorded only where the individual requests or agrees with the recording.

Pharmacists will only seek the information necessary to satisfy his or her professional responsibility to provide care and ensure the appropriateness of the medication. The MPhA has reminded pharmacists of the individual's right to remain anonymous and to decline to answer personally sensitive questions. If the pharmacist chooses not to dispense Plan B, the individual should be informed of the reasons.

The Manitoba Pharmaceutical Association reiterates its requirement that any consultations between a pharmacist and an individual be conducted in an area where confidentiality can be ensured.

The MPhA is clarifying its practice guideline, "Emergency Contraception (EC) Care" to reinforce the narrow context in which the recording of personal health information is necessary. The Association is also issuing a Notice to the profession that reminds pharmacists of these issues.

## **Appendix A**

The legislative provisions in Manitoba on the subject of the collection of personal health information is set out in PHIA, as follows:

### **Restrictions on collection**

**13(1)** A trustee shall not collect personal health information about an individual unless

- (a) the information is collected for a lawful purpose connected with a function or activity of the trustee; and
- (b) the collection of the information is necessary for that purpose.

### **Limit on the amount of information**

**13(2)** A trustee shall collect only as much personal health information about an individual as is reasonably necessary to accomplish the purpose for which it is collected.

In the very limited purposes where there would be a need to collect personal health information in the provision of Plan B, the patient must be advised of the collection. PHIA provides:

### **Notice of collection practices**

**15(1)** A trustee who collects personal health information directly from the individual the information is about shall, before it is collected or as soon as practicable afterwards, take reasonable steps to inform the individual

- (a) of the purpose for which the information is being collected;

If personal health information is collected, it will be subject to the provisions of PHIA concerning the use, disclosure and safekeeping of personal health information.