

# Frequently Asked Questions

## Health Information Privacy and Management Act



### **What is HIPMA? Why is it necessary?**

Yukon's *Health Information Privacy and Management Act (HIPMA)* sets out rules for how personal health information (PHI) can be collected, used, disclosed and secured within Health and Social Services (HSS). Similar laws are in place across most of Canada.

The law creates privacy protections that reflect the increased use of electronic information systems. *HIPMA* balances an individuals' right to have their personal health information protected with the need of health care providers to have access to a patient's health information to provide them with the best possible care.

*HIPMA* comes into force on August 31, 2016.

### **What is personal health information?**

Personal health information (also referred to as PHI) is individually identifiable information in recorded and unrecorded forms (e.g., records and conversations) and includes, but is not limited to:

- Health information that is identifying information and relates to:
  - o an individual's physical or mental state or the provision of health care (e.g., health history, diagnostic services, health promotion services)
  - o payments for health care
  - o organ, tissue and bodily substance donation, testing, etc.
- Travel for Medical Treatment Act applications and assessments
- An individual's registration information (e.g., name, address, health card number)
- Provider registry information (e.g., health care provider's name, business information)

### **Does HIPMA apply to all records within Health and Social Services?**

*HIPMA* applies to all records containing personal health information within Health and Social Services (HSS) with limited exceptions. For example, records relating to an individual's employment with the Department that contain personal health information are subject to Yukon's *Access to Information and Protection of Privacy Act*. Often program areas will have records that contain a mix of personal information and personal health information. These records are considered "mixed records" and *HIPMA* applies to mixed records.

### **Who must follow the Act?**

All Yukon Government Health and Social Services staff, Custodians, and their agents must comply with *HIPMA* when they collect, use or disclose personal health information (PHI) when providing health care, conducting research and health system planning and management.

Custodians: Custodians, who are typically individuals or organizations who provide or support health care, are named in the *Act* and its regulations. Custodians include: Yukon's department of Health and Social Services (HSS), the Yukon Hospital Corporation (YHC), Kwanlin Dün First Nation Health Centre,

Emergency Medical Services (EMS), and a variety of health care providers, such as pharmacists, physicians and dentists. Custodians have a number of legal responsibilities under the *Act*.

Agents: An agent is any person or organization who acts on behalf of a custodian in relation to personal health information. Examples of agents include:

- Employees of the custodian, such as the receptionist in a family physician's clinic or a nurse at the hospital.
- Contractors or service providers who provide services on behalf of the custodian.
- Students and volunteers.

Information Managers: An information manager is any organization or individual who processes, stores, retrieves, de-identifies or otherwise transforms, archives or disposes of PHI on behalf of the custodian. Organizations and individuals who provide information management or information technology services on behalf of a custodian are also information managers.

Examples of information managers include software companies who maintain a clinic's information management system on the clinic's behalf, a company that stores a custodian's paper health records that have been archived, or a shredding company that a custodian contracts with to dispose of personal health information. The *Act* and its regulations contain a number of requirements for the agreements between custodians and their information managers.

#### **Who can ask for my Yukon Health Care card or number?**

Under the *Act*, your health card and number are considered PHI, and you can only be required to show it when receiving publically funded health care (for example, when you see your family doctor or are admitted into hospital).

Any person in the territory who collects, uses or discloses of the Yukon health card number or requests an individual to present the health card can only do so in accordance with *HIPMA*.

Yukon Government organizations must stop using the health care card or number for non-health related purposes come December 31, 2016.

#### **What are my rights under *HIPMA*?**

Under *HIPMA*, you have certain rights when it comes to the access, protection, disclosure and use of your health information.

- You have the right to be notified if there has been a breach of your personal health information that could cause you significant harm.
- You have the right to request access to your personal health information.
- You have the right to request that changes be made to personal health information that you believe to be inaccurate or incorrect.
- You have the right to request a record of who has looked at your records in a Health and Social Services computer system.
- You have the right to limit or withdraw consent to the collection, use, or disclosure of your personal health information.
- You have the right to make a complaint to Health and Social Services Privacy Officer or Yukon's Information and Privacy Commissioner about the department's information practices.

**Does *HIPMA* include fines and penalties?**

Yes – if a person is found guilty of knowingly collecting, using, disclosing or gaining or attempting to gain access to health information in contravention of the *Act* and regulation, fines can be levied against individuals and organizations.

**What is “health care” for the purposes of *HIPMA*?**

Health care under *HIPMA* means: Any activity, service, examination, assessment, care or procedure that is provided to an individual for the promotion, treatment, diagnosis, or maintenance of the individual’s mental or physical health. Or, any activity related to the prevention of disease or injury, rehabilitative or palliative care, or the compounding dispensing or selling of a drug, device, and equipment related to the individual’s health. For example, when you fill a prescription at the pharmacy.

**How do Custodians protect my personal health information?**

Custodians are required to follow information practices that protect the privacy and confidentiality of your personal health information. These include administrative, technical and physical safeguards for both paper and electronic records. All Health and Social Services staff and other Custodians outlined in the regulations (such as dentists, pharmacists) as well as staff in their clinics are required to undergo privacy training and sign a pledge of confidentiality before handling any personal health information.

**Where can I learn more about *HIPMA*?**

Visit the Yukon Health and Social Services website, at [www.hss.gov.yk.ca/healthprivacy.php](http://www.hss.gov.yk.ca/healthprivacy.php).