

## What is the Personal Health Information Protection Act?

*The Personal Health Information Protection Act, 2004 (PHIPA) came into effect in Ontario, Canada on November 1, 2004. PHIPA creates rules for the collection, use and sharing of personal health information. PHIPA also gives patients rights related to access to their health records and how their health information is used.*

*PHIPA defines “personal health information” as identifiable information relating to an individual’s health and health care history. For example, information contained in medical files such as diagnostic, treatment and care information, OHIP numbers, genetic information and other health record details.*

### Who is affected?

*PHIPA applies to “health information custodians” in Ontario, Canada. Health information custodians include doctors, health care practitioners, hospitals, long-term care facilities, health care clinics, laboratories, pharmacies, the Ontario Ministry of Health and Long-Term Care and other health-related organizations. The Act also applies to organizations outside the health system that receive information such as insurance companies, employers, and schools.*

### What does PHIPA have to do with information management?

*Similar to other privacy legislation, including the Canadian Personal Information Protection and Electronic Documents Act (PIPEDA), PHIPA sets out the duties of “health information custodians” with respect to security of information. Part II, Sections 12 (1), 13 and 14 of the Act address information management more specifically:*

- *Security – 12. (1) A health information custodian shall take steps that are reasonable in the circumstances to ensure that personal health information in the custodian’s custody or control is protected against theft, loss and unauthorized use or disclosure and to ensure that the records containing the information are protected against unauthorized copying, modification or disposal.*
- *Records – 13. (1) Handling of records – A health information custodian shall ensure that the records of personal health information that it has in its custody or under its control are retained, transferred and disposed of in a secure manner and in accordance with the prescribed requirements, if any.*
- *13. (2) Retention of records subject to a request – Despite subsection (1), a health information custodian that has custody or control of personal health information that is the subject of a request for access under section 53 shall retain the information for as long as necessary to allow the individual to exhaust any recourse under this Act that he or she may have with respect to the request.*
- *14. (1) Place where records kept – A health information custodian may keep a record of personal health information about an individual in the individual’s home in any reasonable manner to which the individual consents, subject to any restrictions set out in a regulation, by-law or published guideline under the Regulated Health Professions Act, 1991, an Act referred to in Schedule 1 of that Act, the Drugless Practitioners Act or the Social Work and Social Service Work Act, 1998.*
- *14. (2) Records kept in other places – A health care practitioner may keep a record of personal health information about an individual in a place other than the individual’s home and other than a place in the control of the practitioner if, (a) the record is kept in a reasonable manner; (b) the individual consents; (c) the health care practitioner is permitted to keep the record in the place in accordance with a regulation, by-law or published guideline under the Regulated Health Professions Act, 1991, an Act referred to in Schedule 1 to that Act, the Drugless Practitioners Act or the Social Work and Social Service Work Act, 1998, if the health care practitioner is described in any of clauses (a) to (c) of the definition of “health care practitioner” in section 2; and (d) the prescribed conditions, if any, are satisfied.*

*The government is expected to introduce disposal/ destruction regulations in 2005.*

### What do custodians have to do to comply PHIPA?

Custodians must implement policies about when, how and the purposes for which they collect, use, modify, disclose, retain and dispose of personal health information. They must also outline the administrative, technical and physical safeguards they have put in place. More specifically, custodians must ensure that records are retained, transferred and disposed of securely.

Offences are outlined under PHIPA Section 72 (1) and penalties for non-compliance are outlined in Section 72 (2) and 72 (3):

*“Penalty – 72 (2) A person who is guilty of an offence under subsection (1) is liable, on conviction, (a) if the person is a natural person, to a fine of not more than \$50,000; and (b) if the person is not a natural person, to a fine of not more than \$250,000.*

*72 (3) If a corporation commits an offence under this Act, every officer, member, employee or other agent of the corporation who authorized the offence, or who had the authority to prevent the offence from being committed but knowingly refrained from doing so, is a party to and guilty of the offence and is liable, on conviction, to the penalty for the offence, whether or not the corporation has been prosecuted or convicted.”*

### How can we help?

Securit’s Customer Service Representatives destroy everything on the customer’s site. When it comes time for health care providers to destroy personal health information, they can be assured that the materials will be destroyed completely. A representative from the organization can even witness the destruction. Securit also provides a Certificate of Destruction to prove that the documents were destroyed.

Working with Securit, health care providers can arrange offsite storage for archived files with the assurance that the documents will be in a safe, secure location. Securit also offers fast records retrieval and online file management allowing customers to put their hands on a file quickly. For peace of mind, contact Securit today at 1 800 697-4733.

#### For more information:

Ontario Ministry of Health and Long Term Care – <http://www.health.gov.on.ca>  
Information and Privacy Commissioner, Ontario – <http://www.ipc.on.ca>

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