

CATEGORY:	ORGANIZATIONAL: INFORMATION MANAGEMENT
SUB-CATEGORY:	PRIVACY
GROUP:	
DISTRIBUTION:	ALL EMPLOYEES
TITLE:	DUTY TO NOTIFY THE OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER OF A BREACH

PURPOSE

To provide direction on the requirement to notify the Office of the Information and Privacy Commissioner (OIPC) of breaches under the *Personal Health Information Act* (PHIA).

POLICY

Where Western Health reasonably believes that there has been a material breach, as defined in the PHIA regulations, involving the unauthorized collection, use or disclosure of personal health information, Western Health must inform the OIPC of the breach at the first reasonable opportunity.

In consultation with the appropriate manager(s)/director(s), the Regional Manager Information Access and Privacy or designate will notify the Office of the Information and Privacy Commissioner of a privacy breach. Where the breach is a material breach as defined by this policy and the *Personal Health Information Act*, in consultation with Senior Executive and the Regional Director Quality and Risk Management, the Regional Manager Information Access and Privacy or designate will notify the Office of the Information and Privacy Commissioner of a material breach.

Please also refer to the *Privacy Breach Management* and (9-03-10) *Disclosure of Occurrences* (6-02-16) policies for further direction.

DEFINITIONS

Commissioner: The Information and Privacy Commissioner appointed under the *Access to Information and Protection of Privacy Act*.

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Direct Notification: Refers to the notifying individuals who have been affected by a privacy breach through direct mean including telephone, letter or in person.

Disclose: To make the information available or to release it but does not include a use of the information and “disclosure” has a corresponding meaning.

Material Breach: The factors that are relevant to determining what constitutes a material or major breach for the purpose of subsection 15(4) of the *Personal Health Information Act* are the following:

- The sensitivity of the personal health information involved,
- Number of people whose personal health information was involved,
- Whether the custodian reasonably believes that the personal health information involved may have been or will be misused; and
- Whether the cause of the breach or the pattern of the breached indicates a systemic problem.

Privacy Breach: A privacy breach occurs when there is unauthorized and/or inappropriate access, collection, use, disclose or disposal of personal/personal health or business information. Such activity is “unauthorized” if it occurs in contravention of *ATIPPA* or *PHIA*. The most common privacy breaches occur when personal information of clients, employees or a corporation is stolen, lost or mistakenly disclosed. For example, a privacy breach occurs when a computer/laptop containing personal information is stolen or personal information is mistakenly emailed or faxed to the wrong person.

LEGISLATIVE CONTEXT

Access to Information and Protection of Privacy Act, 2015. Available at:
<http://www.assembly.nl.ca/legislation/sr/statutes/a01-2.htm>

Personal Health Information Act (2008). Available at:
<http://www.assembly.nl.ca/legislation/sr/statutes/p07-01.htm>

REFERENCES

Newfoundland and Labrador Personal Health Information Act, Provincial Policy Manual Version 1.2, February 2011

Province of Newfoundland and Labrador: *Personal Health Information Act*, SNL2008, C. P-7.01, s. 15

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KEYWORDS

Privacy breach, breach, duty to notify, notifying the Privacy Commissioner

TO BE COMPLETED BY STAFF IN QUALITY DEPARTMENT

Approved By: Chief Executive Officer	Maintained By: Regional Manager, Information Access & Privacy
Effective Date: 11/March/2015	<input checked="" type="checkbox"/> Reviewed: 16/July/2018 <input type="checkbox"/> Revised: 18/November/2020 (<i>Date of most recent changes to the policy</i>)
Review Date: 18/November/2023	<input type="checkbox"/> Replaces: (<i>Indicates name and number of policy being replaced</i>) OR <input checked="" type="checkbox"/> New

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